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*Status: Point in time view as at 26/11/2010.*

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Decision of 22 December 2003 authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt (notified under document number C(2003) 4956) (2004/4/EC) (repealed). (See end of Document for details)*

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Commission Decision of 22 December 2003 authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt (notified under document number C(2003) 4956) (2004/4/EC) (repealed)

## COMMISSION DECISION

of 22 December 2003

authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt

(notified under document number C(2003) 4956)

(2004/4/EC) (repealed)

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<sup>(1)</sup>, as last amended by Commission Directive 2003/47/EC<sup>(2)</sup>, and in particular Article 16(3) thereof,

Whereas:

- (1) Where a Member State considers that there is an imminent danger of the introduction into its territory of *Pseudomonas solanacearum* (Smith) Smith, the cause of brown rot, from a third country, it may temporarily take any additional measures necessary to protect itself from that danger.
- (2) In 1996, on the basis of continued interceptions of *Pseudomonas solanacearum* (Smith) Smith in potatoes originating in Egypt several Member States (France, Finland, Spain and Denmark) adopted measures to implement a ban on potatoes originating in Egypt, with a view to ensuring more efficient protection against the introduction of *Pseudomonas solanacearum* (Smith) Smith from Egypt into their respective territories.
- (3) The Commission responded by adopting Commission Decision 96/301/EC of 3 May 1996, authorising Member States temporarily to take additional measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt<sup>(3)</sup>, as last amended by Decision 2002/903/EC<sup>(4)</sup>.
- (4) Decision 96/301/EC was strengthened by a series of amending decisions. The import into the Community of potatoes originating in Egypt was banned except where the potatoes originating in pest-free areas established in accordance with the FAO International standard for phytosanitary measures part 4: Pest surveillance — Requirements of the establishment of pest-free area.

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- (5) During the 2002/03 import season, a number of interceptions of *Pseudomonas solanacearum* (Smith) Smith were recorded and Egypt itself decided to ban all exports of Egyptian potatoes to the Community as of 24 March 2003.
- (6) In the light of the above situation the Commission initiated a mission to Egypt which was carried out by a Member State's expert team in August 2003 to technically audit the existing control and monitoring system for the production and marketing of potatoes destined for export to the Community.
- (7) The results of the mission were assessed. The Commission considered it appropriate to introduce a more rigorous visual inspection of consignments of potatoes immediately prior to export at the port of dispatch in Egypt.
- (8) Furthermore, the Commission considered it appropriate, upon the notification of a suspect finding of *Pseudomonas solanacearum* (Smith) Smith, to redefine the pest-free area related to the said suspect notification, rather than banning the export of potatoes originating in the entire pest-free area related to the said suspect notification. Hence, the identification of 'area' should be modified and be based on, either a 'sector' or 'basin'.
- (9) In the light of the conclusions and recommendations of the audit report, it should be possible to permit, for the 2003/04 import season, the entry into the territory of the Community of tubers of *Solanum tuberosum* L. which originate in pest-free areas of Egypt approved in accordance with the said FAO International Standard.
- (10) In the interest of clarity and rationality, Decision 96/301/EC should therefore be repealed and replaced by this Decision.
- (11) 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*

The entry into the territory of the Community of tubers of *Solanum tuberosum* L. which originate in Egypt, other than those already prohibited under the provisions laid down in Annex III, part A, point 10 to Directive 2000/29/EC, shall be prohibited.

*Article 2*

1 By way of derogation from Article 1, for the import season [<sup>F1</sup>2010/2011] the entry into the territory of the Community of tubers of *Solanum tuberosum* L. which originate in Egypt shall be permitted from the 'pest-free areas' referred to in paragraph 2, provided that the measures applicable to tubers grown in these areas and laid down in the Annex to this Decision, are complied with.

2 The Commission shall establish whether 'pest-free areas' have been approved in Egypt for the [<sup>F2</sup>import season referred to in paragraph 1] in accordance with the 'FAO International Standard for Phytosanitary Measures Part 4: Pest Surveillance — Requirements for the Establishment of Pest-Free Areas', in particular point 2.3 thereof, and shall compile a 'list of approved pest-free areas', including identification details of the fields located in the above 'approved pest-free areas'. The Commission shall convey this list to the Committee and to the Member States.

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#### Textual Amendments

- F1** Substituted by [Commission Decision of 25 November 2010 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of \*Pseudomonas solanacearum\* \(Smith\) Smith as regards Egypt \(notified under document C\(2010\) 8185\) \(2010/714/EU\)](#).
- F2** Substituted by [Commission Decision of 31 October 2006 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of \*Pseudomonas solanacearum\* \(Smith\) Smith as regards Egypt \(notified under document number C\(2006\) 5109\) \(2006/749/EC\)](#).

#### Article 3

The provisions of Article 2 shall no longer apply as soon as the Commission has notified to the Member States that the sixth interception of *Pseudomonas solanacearum* (Smith) Smith has been confirmed in accordance with points 2 or 3 of the Annex to this Decision, in lots of potatoes introduced into the Community pursuant to this Decision during the [<sup>F2</sup>import season referred to in Article 2(1)], and that it has been found that interceptions indicate that the method for the identification of ‘pest-free areas’ in Egypt or the procedures for official monitoring in Egypt have not been sufficient to prevent the risk of introduction of *Pseudomonas solanacearum* (Smith) Smith into the Community.

#### Textual Amendments

- F2** Substituted by [Commission Decision of 31 October 2006 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of \*Pseudomonas solanacearum\* \(Smith\) Smith as regards Egypt \(notified under document number C\(2006\) 5109\) \(2006/749/EC\)](#).

#### Article 4

The importing Member States shall provide the Commission and the other Member States, before [<sup>F1</sup>31 August 2011], with information on the amounts imported pursuant to this Decision and with a detailed technical report on the official examination referred to in point 2 of the Annex; copies of each plant health certificate shall be transmitted to the Commission. In cases of notification of a suspect or confirmed finding as referred to in point 4 of the Annex copies of the plant health certificates and their attached documents shall be transmitted with the said notification.

#### Textual Amendments

- F1** Substituted by [Commission Decision of 25 November 2010 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of \*Pseudomonas solanacearum\* \(Smith\) Smith as regards Egypt \(notified under document C\(2010\) 8185\) \(2010/714/EU\)](#).

#### Article 5

The Member States shall adjust the measures which they have adopted with a view to protecting themselves against the introduction and spread of *Pseudomonas solanacearum* (Smith) Smith in such a manner that the measures comply with Articles 1, 2 and 3.

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*Article 6*

Decision 96/301/EC is repealed.

*Article 7*

This Decision shall be reviewed by [F130 September 2011] at the latest.

**Textual Amendments**

- F1** Substituted by [Commission Decision of 25 November 2010 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of Pseudomonas solanacearum \(Smith\) Smith as regards Egypt \(notified under document C\(2010\) 8185\) \(2010/714/EU\)](#).

*Article 8*

This Decision is addressed to the Member States.

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## ANNEX

For the purpose of the provisions of Article 2, the following emergency measures shall be complied with, in addition to the requirements for potatoes laid down in parts A and B of the Annexes I, II and IV to Directive 2000/29/EC, with the exception of those laid down in Annex IV, part A, section I, point 25.8:

1. (a) the potatoes destined for introduction into the Community shall have been produced in fields located in an approved 'pest-free area' in Egypt<sup>F3</sup> as established by the Commission] in accordance with Article 2 of this Decision; in respect of any such approved areas and for the purpose of this Decision, the identification of 'area' shall be based on, either a 'sector' (administrative unit already established which covers a group of 'basins') or 'basin' (irrigation unit) and shall be identified by its individual official code number;
- (b) the potatoes specified under (a) shall have been, in Egypt:
  - (i) grown from potatoes, either directly of Community origin or once grown from such potatoes, produced in an approved 'pest-free area' as established under Article 2 of this Decision and which have been officially tested for latent infection, immediately prior to planting, in accordance with the Community test scheme as laid down in Council Directive 98/57/EC<sup>(5)</sup>, and found free from *Pseudomonas solanacearum* (Smith) Smith in such testing;
  - (ii) officially inspected in the field during the growing season for symptoms of potato brown rot caused by *Pseudomonas solanacearum* (Smith) Smith and found free from such symptoms in these inspections and a sample taken of 500 tubers per five feddans (= 2,02 hectares) or 200 tubers per feddan (= 0,41 hectare) or part thereof for smaller fields of potatoes as close as possible to harvest for laboratory examination including an incubation test and visual inspection on cutting of the tubers for symptoms of potato brown rot caused by *Pseudomonas solanacearum* (Smith) Smith and found free from such symptoms in these inspections;
  - (iii) transported to packing stations officially approved by the Egyptian authorities to handle only potatoes eligible for export to the Community during the [<sup>F1</sup>2010/2011] export season and on arrival at such an approved packing station,
    - accompanied by documents attached to each lorry load at the field of harvest stating the origin, by area as specified in (a), of the load. These documents shall be held at the packing station until after the completion of the export season,
    - officially inspected on samples of cut tubers for symptoms of potato brown rot caused by *Pseudomonas solanacearum* (Smith) Smith and found free from such symptoms in these inspections, at a sampling rate, for 70 kg sacks or equivalent, of 10 % of sacks of 40 tubers inspected per sack and, for 1 or 1,5 tonne sacks, at a sampling rate of 50 % of sacks and 40 tubers inspected per sack. The list of packing stations officially

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- approved by the Egyptian authorities shall have been made available to the Commission prior to [<sup>F1</sup>1 January 2011][<sup>F4</sup>]
- [<sup>F5</sup>officially monitored from the time of their arrival at the packing station until they are put into bags sealed in accordance with point 1(b)(x);]
- (iv) after packing of sacks at the packing station, officially inspected on samples of tubers for symptoms of potato brown rot caused by *Pseudomonas solanacearum* (Smith) Smith and found free from such symptoms in these inspections, at a sampling rate of 2 % of sacks per consignment and 30 tubers inspected per sack;
- (v) [<sup>F4</sup>immediately prior to export to the Community, officially inspected at the port of dispatch by cutting 400 tubers from each pest-free area in a consignment drawn from at least ten bags per pest-free area;]
- (vi) officially tested for latent infection on samples taken from each consignment; during the export season at least one sample per basin or sector and represented in the consignment must be taken, but in any case at least five samples must be taken and submitted for laboratory analysis in accordance with the Community test scheme as laid down in Directive 98/57/EC, and found free from *Pseudomonas solanacearum* (Smith) Smith in such testing;
- (vii) put on an official holding notice on further treatment in the process of preparation for their shipment to the Community from the relevant basin, if the inspections and/or testing as referred to in (ii), (iii), (iv), (v) and (vi) reveal suspected occurrence of *Pseudomonas solanacearum* (Smith) Smith, until the refutation of the suspected occurrence of *Pseudomonas solanacearum* (Smith) Smith. At the same moment of the imposition of the above holding notice a buffer zone shall be designated around the relevant basin related to the above suspect finding, unless there is a natural physical barrier (e.g. the desert in the case of pivots). No potatoes shall be exported from the relevant buffer zone until the refutation of the suspected occurrence. The extent of the buffer zone shall take into account the risk of further spreading of *Pseudomonas solanacearum* (Smith) Smith from that approved pest-free area. Information on the identification of the above basin and its buffer zone by their individual official code numbers shall be made available immediately to the Commission, as well as the final results of the examination of the suspected occurrence;
- (viii) harvested, handled and bagged separately, including reasonably separate use of machinery, basin by basin, wherever possible, and in any case area by area as specified in (a);
- (ix) prepared in lots, each of which shall be made up exclusively of potatoes which were harvested in one single area as specified in (a);
- (x) [<sup>F6</sup>clearly labelled on each bag which is sealed, under the control of the competent Egyptian authorities, with an indelible indication of

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the relevant official code number as given in the list of ‘approved pest-free areas’ compiled under Article 2 of this Decision, and of the relevant lot number;]

- (xi) accompanied by the official phytosanitary certificate required under Article 13(1)(ii) of Directive 2000/29/EC indicating the lot number(s) under the section ‘Distinguishing marks’, and the official code number(s), as referred to in (x) under the section ‘Additional declaration’; the lot number of the lot from which a sample has been taken for the purpose specified in (vi), as well as the official statement that the testing has been carried out, shall also be indicated in that section;
  - (xii) exported by an officially registered exporter, the name or trademark of which shall be indicated on each consignment. The list of officially registered exporters established by the competent Egyptian authorities shall have been made available to the Commission prior to [<sup>F1</sup>1 January 2011];
  - (c) the points of entry authorised for the introduction of relevant potatoes and the name and address of the responsible official body in charge of each point shall have been notified by the Member States to the Commission, which will inform the other Member States and Egypt thereof;
  - (d) the responsible official body in charge of the point of entry shall have been notified in advance of the likely time of arrival of consignments of potatoes as well as of the amount thereof.
2. At the point of entry, the potatoes shall be subjected to the inspections required pursuant to Article 13a(1)(b) of Directive 2000/29/EC, and such inspections, shall be done on cut tubers of samples of at least 200 tubers each, taken from each lot in a consignment, or if the lot exceeds 25 tonnes, from every 25 tonnes or part thereof in such alot.

Each lot of the said consignment shall remain under official control and may not be marketed or used until it has been established that the presence of *Pseudomonas solanacearum* (Smith) Smith was not suspected or detected in those examinations. In addition, in cases where typical or suspect symptoms of *Pseudomonas solanacearum* (Smith) Smith are detected in a lot, all remaining lots in the said consignment and lots in other consignments which originate from the same area shall be held under official control until the presence of *Pseudomonas solanacearum* (Smith) Smith has been confirmed or refuted in the said lot.

If typical or suspect symptoms of *Pseudomonas solanacearum* (Smith) Smith are detected in the said examinations, the confirmation or refutation of *Pseudomonas solanacearum* (Smith) Smith shall be determined by testing in accordance with the said Community test scheme. If *Pseudomonas solanacearum* (Smith) Smith is confirmed the lot from which the sample has been taken shall be subjected to one of the following measures, either:

- (i) refusal or permission to send products to a destination outside the Community; or
- (ii) destruction,

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and all remaining lots in the consignment from the same area shall be tested in accordance with point 3.

3. In addition to the inspections referred to in point 2, testing for latent infection in accordance with the said Community test scheme shall be done on samples taken from each area as specified in point 1(a); during the export season at least one sample from each sector or basin per area as referred to in paragraph 1a shall be taken at a rate of 200 tubers per sample from a single lot. The sample selected for latent infection shall also be subjected to an inspection of the cut tubers. For each sample tested and confirmed positive there should be retention and appropriate conservation of any remaining potato extract.

Each lot from which the samples have been taken shall remain under official control and may not be marketed or used until it has been established that the presence of *Pseudomonas solanacearum* (Smith) Smith was not confirmed in the said testing. If *Pseudomonas solanacearum* (Smith) Smith is confirmed the lot from which the sample has been taken shall be subjected to one of the following measures, either:

- (i) refusal or permission to send products to a destination outside the Community; or
  - (ii) destruction.
4. In the case of both suspect and confirmed findings of *Pseudomonas solanacearum* (Smith) Smith the Member States shall notify the Commission and Egypt immediately thereof; the notification of a suspect finding shall be on the basis of a positive result in the rapid screening test(s) as specified in Annex II, section I, point 1 and section II or screening test(s) as specified in Annex II, section I, point 2 and section III of the said Community test scheme.
  5. The Commission shall ensure that it receives information of the details and the results of visual inspections referred to in points 1(b)(ii), (iii), (iv) and (v) and of the testing referred to in paragraph 1(b)(vi). The list of approved pest-free areas shall be adjusted by the Commission according to these results and to the findings made under points 2 and 3; in relation to a suspect notification made under point 4 the list of 'approved pest-free areas' shall be adjusted by means of the imposition of a holding notice on further exports to the Community of potatoes related to the above suspect notification originating in the basin in the relevant approved pest-free area until refutation of the suspect finding of *Pseudomonas solanacearum* (Smith) Smith.

On receipt of the notification made by the Commission of the above adjusted list of approved pest-free areas, a buffer zone shall be designated by the Egyptian authorities as referred to in point 1(b)(vii). Information on the identification of the above buffer zone by the individual official code number(s) shall be made available immediately to the Commission and the Member States. In absence of such information within three working days of the suspected occurrence, the Commission shall adjust the list of approved pest-free areas by excluding on any further exports for the remaining period of the [F<sup>2</sup>import season referred to in Article 2(1)] from the entire sector in which the basin related to the above suspect notification is situated.

6. Member States shall lay down appropriate labelling requirements, including the Egyptian origin, with the aim of preventing the potatoes from being planted and appropriate measures for the disposal of waste after packaging or processing of the potatoes to prevent any spread of *Pseudomonas solanacearum* (Smith) Smith as a result of possible latent infection.



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### Textual Amendments

- F3** Deleted by Commission Decision of 6 December 2004 amending and correcting Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of Pseudomonas solanacearum (Smith) Smith as regards Egypt (notified under document number C(2004) 4602) (2004/836/EC).
- F4** Substituted by Commission Decision of 25 November 2005 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of Pseudomonas solanacearum (Smith) Smith as regards Egypt (notified under document number C(2005) 4525) (2005/840/EC).
- F5** Inserted by Commission Decision of 25 November 2005 amending Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of Pseudomonas solanacearum (Smith) Smith as regards Egypt (notified under document number C(2005) 4525) (2005/840/EC).
- F6** Substituted by Commission Decision of 6 December 2004 amending and correcting Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of Pseudomonas solanacearum (Smith) Smith as regards Egypt (notified under document number C(2004) 4602) (2004/836/EC).

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- (1) OJ L 169, 10.7.2000, p. 1.
- (2) OJ L 138, 5.6.2003, p. 47.
- (3) OJ L 115, 9.5.1996, p. 47.
- (4) OJ L 312, 15.11.2002, p. 28.
- (5) OJ L 235, 21.8.1998, p. 1.

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