REGULATION (EEC) No 1869/75 OF THE COMMISSION

of 22 July 1975

amending Regulation (EEC) No 2107/74 laying down protective measures applicable to imports of preserved mushrooms

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof ;

Having regard to Council Regulation (EEC) No 865/68 ([1]) of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables, as last amended by Regulation (EEC) No 1420/75 ([2]) ;

Having regard to Council Regulation (EEC) No 1427/71 ([3]) of 2 July 1971 introducing protective measures for products processed from fruit and vegetables, and in particular Article 1 (2) thereof ;

Whereas Article 1 (4) of Commission Regulation (EEC) No 2107/74 ([4]) of 8 August 1974 laying down protective measures applicable to imports of preserved mushrooms, as amended by Regulation (EEC) No 2587/74 ([5]), provides that import licences shall not be required for imports originating in third countries which are willing to undertake to maintain a certain minimum price level ; whereas it appears possible that some third countries are willing to undertake to limit their exports to the Community ; whereas, therefore, it is advisable to exempt exports originating from these countries from the system of import licences ;

Whereas under Article 3 of Regulation (EEC) No 2107/74 the reference quantity is to be equal either to the quantity of preserved mushrooms imported by the applicant during the corresponding month in 1973 or to the average quantity imported during the corresponding months in 1971, 1972 and 1973 ; whereas in order to simplify the administrative task of Member States in applying the protective measures it is advisable to lay down only one reference period ; whereas for this purpose it is appropriate to select the period in which the greatest quantities were imported ;

Whereas for the same purpose it is advisable to amend the detailed rules concerning the issue and period of validity of the licences ;

Whereas, with a view to improving the administration of the licensing system, it is advisable to relax the rules applicable to applications for licences made by persons who have not imported the products in question during 1973 ;

Whereas it seems fair to allow Member States to extend the period of validity of such licences in cases of *force majeure*,

HAS ADOPTED THIS REGULATION :

Article 1

1. The text of the second subparagraph of Article 1 (2) of Regulation (EEC) No 2107/74 is replaced by the following :

'The licence shall be issued for imports to be effected during the quarter in respect of which it was drawn up. It shall be valid for imports into the Member State which issued it'.

2. The text of the first subparagraph of Article 1 (3) of Regulation (EEC) No 2107/74 is replaced by the following :

'When application for a licence is made, the quantities of products to be imported in the course of each quarter shall be indicated.

For the purposes of this Regulation a quarter shall mean one of the following periods :

— 1 January to 31 March,
— 1 April to 30 June,
— 1 July to 30 September,
— 1 October to 31 December,

of the year in question'.

Article 2

The text of Article 1 (4) of Regulation (EEC) No 2107/74 is replaced by the following :

'Import licences shall not be required for imports originating in third countries to be specified which are willing and in a position to undertake that the quantities of products originating in their territory imported into the Community shall not exceed certain maximum quantities and that all deflection of trade will be avoided'.

([1]) OJ No L 153, 1. 7. 1968, p. 8.
([2]) OJ No L 141, 3. 6. 1975, p. 1.
([3]) OJ No L 151, 7. 7. 1971, p. 5.
([4]) OJ No L 218, 9. 8. 1974, p. 54.
([5]) OJ No L 276, 11. 10. 1974, p. 30.

Article 3

The text of Article 2 of Regulation (EEC) No 2107/74 is replaced by the following :

'1. Member States shall notify the Commission by telex :

(a) at the latest on the fifth day of the month preceding each quarter and for the first time by 5 September 1975, of the quantities indicated for each quarter in the licence applications lodged with them ;

(b) at the latest on the fifth day of the first month of each quarter, of the quantities for the quarter in question in respect of which import licences were issued between the twentieth day and the end of the previous month.

2. On the basis of the notifications provided for in paragraph 1 the Commission shall assess the situation and decide as provided in Article 3 on the quantities of products for which licences shall be issued.

3. The Commission shall reach a decision during the week following that in which the quantities applied for are notified to it. If, however, the Commission fails to act within that week, the conditions previously in force for the issue of import licences shall continue to apply.

4. Import licences shall be issued, within the limits of the amounts applied for, for the quantities determined by the Commission. They shall be issued from the twentieth day until the end of the month preceding the quarter in question.

In so far as applications relate to quantities exceeding these specified by the Commission they shall be refused'.

Article 4

The text of Article 3 of Regulation (EEC) No 2107/74 is replaced by the following :

'1. The Commission shall determine the quantities of products for which licences shall be issued by fixing a percentage to be applied to the reference quantity laid down for each applicant in respect of each period for which a licence is issued.

The reference quantity shall for each period indicated in the application be equal to the quantity of preserved mushrooms imported by the applicant into the Community in 1973 during that period.

Imports originating in third countries having given the undertaking referred to in Article 1 (4) shall not be taken into account when the reference quantity is being determined.

2. Licences issued before 1 August 1975 on the basis of a reference quantity equal to the average quantity imported into the Community in the course of 1971, 1972 and 1973 during each of the months corresponding to those indicated in the application shall be regarded as having been issued on the basis of the reference quantity as defined in paragraph 1'.

Article 5

The text of Article 4 of Regulation (EEC) No 2107/74 is replaced by the following :

'Where applications for licences are made by persons who have not imported the products in question into the Community during 1973, such applications shall by way of derogation from the abovementioned provisions, be granted subject to an overall limit for all applications taken together of 5 % of the average quantities of products imported during each of the periods of 1973 corresponding to those specified in the applications into the Member State with whose authorities such applications are lodged. Imports originating in countries having given the undertaking referred to in Article 1 (4) shall be excluded when the average quantities are being calculated.

Member States shall issue licences in respect of such applications by apportioning equitably amongst all the applicants the quantity corresponding to the limit referred to in the preceding paragraph.

Member States shall notify the Commission in accordance with Article 2 (1) of the quantities for which such import licences have been applied for and granted'.

Article 6

In Article 5 (1) (a) and (b) of Regulation (EEC) No 2107/74, the word 'month' is in each case replaced by the word 'period'.

Article 7

The text of Article 7 (e) of Regulation (EEC) No 2107/74 is replaced by the following :

'the period for which it was issued'.

Article 8

The text of Article 10 of Regulation (EEC) No 2107/74 is replaced by the following :

'1. On application by the party concerned the Member State which issued the import licence

shall decide that the obligation to import is cancelled and that the deposit shall not be forfeited in respect of quantities of products which the party concerned has imported or has had imported into the territory of the Community under arrangements for the suspension of customs duties or charges having equivalent effect and which have left the territory of the Community and been entered for home use in a third country.

2. Where as a result of *force majeure* importation cannot be effected during the period of validity of the licence the competent agency of the issuing Member State shall decide, at the request of the titular holder, either that the obligation to import be cancelled, the deposit being released, or that the period of validity of the licence be extended for such period as may be considered necessary in view of the circumstances invoked. Such extension may be granted after the period of validity of the licence has expired.

The decision to cancel or to extend shall be restricted to that quantity of the product which could not be imported by reason of *force majeure*.

Any extension of a licence shall be recorded by means of an endorsement stamped by the issuing agency on the licence and by the appropriate of the licence.

3. The importer shall by means of appropriate documents furnish proof :

(a) of the circumstances regarded as constituting *force majeure*;

(b) of the period during which the products remained on Community territory following their importation under arrangements for the suspension of customs duties or other charges having equivalent effect, of their departure from Community territory and of their free entry for home use in a third country.

4. Member States shall inform the Commission of the circumstances recognised by them as constituting *force majeure*.'

Article 9

In Article 11b as follows is added to Regulation (EEC) No 2107/74 :

'*Article 11b*

Should these protective measures continue to apply after 30 September 1975 any licences issued before 1 September 1975 for imports to be carried out on or after 1 October 1975 shall be replaced by the competent authority of the Member State by new licences issued in respect of a quarter.

Member States shall inform the Commission of the quantities in respect of which licences are replaced as provided in the preceding paragraph'.

Article 10

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

Articles 2, 4, 5, 6, 7 and 8 shall apply with effect from 1 August 1975.

Articles 1, 3 and 9 shall apply with effect from 1 September 1975.

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

Done at Brussels, 22 July 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission