COMMISSION REGULATION (EEC) No 3221/90

of 7 November 1990

on the issue of import licences for provisionally preserved cultivated mushrooms

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables [1], as last amended by Regulation (EEC) No 2201/90 [2], and in particular Article 18 (2) thereof,

Whereas Commission Regulation (EEC) No 2891/90 [3] fixed the maximum quantity of provisionally preserved cultivated mushrooms in respect of which import licences are to be issued for 1990; whereas that Regulation suspended, as a protective measure, from 3 October the issue of import licences for the abovementioned products until conditions could be drawn up for the issue of import licences for use in respect of the outstanding quantities available during the current year; whereas the outstanding quantities available should be specified and the conditions for the issue of the licences should be drawn up;

Whereas the use of the outstanding quantities available should be reserved as a priority for those applying for licences who can prove, to the satisfaction of the competent national authorities, that the products were in the course of being delivered to the Community on the day on which Regulation (EEC) No 2891/90 entered into force;

Whereas, in order to ensure that the outstanding quantities available are properly used and avoid licence applications submitted for speculative reasons, the bulk of the quantities available should be reserved for importers who in the past obtained supplies of cultivated mushrooms in brine on the basis of the quantities they applied for in 1989 and 1990, while access to the quantities available by new importers should be maintained;

Whereas, lastly, the additional rules necessary for the issue of the licences should be laid down; whereas such rules are complementary to or in derogation from the provisions laid down by Commission Regulation (EEC) No 2405/89 of 1 August 1989 laying down special detailed rules for the application of the system of import licences and advance fixing certificates for products processed from fruit and vegetables [4], as amended by Regulation (EEC) No 619/90 [5],

HAS ADOPTED THIS REGULATION:

Article 1

1. Until the end of 1990, import licences shall be issued for 4 270 tonnes of cultivated mushrooms provisionally presented but unsuitable for consumption in that state falling within CN code ex 0711 90 50, under the conditions laid down in this Regulation.

2. Import licences shall be applied for and issued in accordance with Regulations (EEC) No 2405/89 and (EEC) No 203/85 [6], without prejudice to the specific provisions of this Regulation.

Article 2

1. Member States shall separately notify the quantity for which import licences have been applied for in respect of products for which it can be proved that they have left the supplier country before the date of entry into force of Regulation (EEC) No 2891/90.

2. The parties concerned shall provide proof, to the satisfaction of the competent authorities, that the conditions set out in paragraph 1 have been complied with.

However, the competent authorities may regard the products as having left the supplier country before the date of entry into force of the abovementioned Regulation when one of the following documents is submitted:

— in the case of transport by sea or waterway, the bill of lading showing that loading took place before that day,

— in case of transport by rail, the consignment note accepted by the railways of the consignor country before that day,

— in case of transport by road, the TIR carnet presented to the first customs office before that day,

— in case of transport by air, the air bill of lading showing that the airline received the products before that day.

Article 3

1. The quantity fixed in Article 1 (1) shall be allocated as follows:

(a) 3 950 tonnes, less the quantities referred to in Article 2, to importers who submitted applications for import licences for the products in question in the course of 1989 and 1990;

(b) 320 tonnes to importers who do not fulfil the condition set out in (a).

However, where the quantity specified in (a) or (b) is not applied for, or is so only partially, the quantity available shall be allocated to the applications submitted by the other group of importers.

2. (a) No application for a licence may relate to a quantity exceeding that shown in paragraph 1 (a) or (b), as applicable.

[1] OJ No L 49, 27. 2. 1986, p. 1.
[2] OJ No L 201, 31. 7. 1990, p. 1.
[3] OJ No L 276, 6. 10. 1990, p. 29.
[4] OJ No L 227, 4. 8. 1989, p. 34.
[5] OJ No L 67, 15. 3. 1990, p. 31.
[6] OJ No L 23, 26. 1. 1985, p. 24.

(b) No application for a licence, submitted by an importer as referred to in paragraph 1 (a), may relate to a quantity exceeding 10 % of the quantity applied for by the same importer in the course of 1989 and 1990, less the quantity applied for in September 1990.

Article 4

Applications for import licences shall be submitted to the competent authorities of the Member States on 12 and 13 November 1990. The abovementioned authorities shall forward these applications to the Commission at the latest by 14 November 1990 at 16 noon, distinguishing between

— the applications relating to the quantities fulfilling the conditions of Article 2, and

— the quantities applied for under points (a) and (b) respectively of Article 3 (1).

Article 5

The Commission shall, by 15 November 1990 at the latest, fix and communicate by telex to the Member States the quantities for which licences are to be issued for each of the three categories of applications mentioned in Article 4.

Article 6

The licences for which the applications were forwarded under Article 4 shall be issued by 16 November 1990 at the latest.

Article 7

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

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

Done at Brussels, 7 November 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission