COMMISSION REGULATION (EEC) No 3780/90

of 19 December 1990

laying down detailed rules for the implementing of Council Regulation (EEC) No 3576/90 as regards the temporary suspension of the import compensation mechanism and of customs duties on fruit and vegetables originating in Spain and Portugal released for consumption in the territory of the former German Democratic Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 3576/90 of 4 December 1990 on the temporary suspension of the mechanisms provided for in Articles 123, 152, 318 and 338 of the Act of Accession of Spain and Portugal and the customs duties for wine and fruit and vegetable products originating in Spain and Portugal and released for consumption in the territory of the former German Democratic Republic (1), and in particular Article 3 thereof,

Whereas Council Regulation (EEC) No 3576/90 lays down the conditions governing the eligibility of products for the temporary suspension of the import compensation mechanism and of customs duties; whereas implementing rules must be adopted for the fruit and vegetables to which this suspension applies;

Whereas trade between Spain and Portugal and the German Democratic Republic during the reference period covering the years 1987, 1988 and 1989 permits the fixing of an average annual quantity eligible for the said suspension only for fruit and vegetables from Spain;

Whereas, to be eligible for the suspension, the products must be consumed fresh or processed in the territory of the former German Democratic Republic; whereas the term 'processing' should be defined as the use for the fruit and vegetables in question for the manufacture of one of the preparations listed in Chapter 20 of the Combined Nomenclature;

Whereas a control certificate issued in accordance with Article 2 of Commission Regulation (EEC) No 2638/69 of 24 December 1969 laying down additional provisions on quality control of fruit and vegetables marketed within the Community (2), as last amended by Regulation (EEC) No 3078/89 (3) should be specified as the accompanying document for the carriage of the fruit and vegetables from their area of origin to the territory of the former German Democratic Republic;

Whereas, to ensure that the fruit and vegetables are actually consumed or processed in the territory of the former German Democratic Republic, the rules laid down in Commission Regulation (EEC) No 4142/87 of 9 December 1987 determining the conditions under which certain goods are eligible on import for a favourable tariff arrangement by reason of their end-use (4), as amended by Regulation (EEC) No 3124/89 (5), should be applied;

Whereas it would appear fair to provide for reimbursement, on application from operators, of amounts already collected on consignments of fruit and vegetables dispatched after the unification of Germany and before 1 January 1991, provided the conditions governing eligibility are met;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

1. The average annual quantities referred to in the second subparagraph of Article 1 (1) of Regulation (EEC) No 3576/90 shall be fixed for fruit and vegetables, for a period from 1 January to 31 December of the same year, as shown in the Annex hereto. If the period during which the suspension applies differs from the above, the quantities shall be fixed on a pro rata basis according to the actual length of this period in comparison with the length of the concerned marketing year.

2. The quantities referred to in paragraph 1 shall be allocated through a tendering system managed by the competent German authorities guaranteeing equal access to all interested economic operators.

3. For the purposes of Article 1 (2) of Regulation (EEC) No 3576/90, 'processing' means using the products concerned to make preparations listed in Chapter 20 of the Combined Nomenclature.

(1) OJ No L 353, 17. 12. 1990, p. 21.
(2) OJ No L 327, 30. 12. 1969, p. 33.
(3) OJ No L 294, 13. 10. 1989, p. 18.
(4) OJ No L 387, 31. 12. 1987, p. 81.
(5) OJ No L 301, 19. 10. 1989, p. 10.

Article 2

Except as otherwise provided in the special provisions laid down in Article 4, for the purposes of Article 2 of Regulation (EEC) No 3576/90 :

— carriage of the product in question must begin on Spanish territory and must be accompanied by a control certificate issued in accordance with Article 2 of Regulation (EEC) No 2638/69. This document shall be marked, in box 13, 'This product is intended for release for consumption in the territory of the former German Democratic Republic'. These words shall be authenticated by the stamp and signature of the official of the competent authorities of the Member State of origin, together with the date,

— at the time of the declaration regarding the release for consumption, a certificate shall be issued by the competent German authorities, certifying that the products in question are eligible under Article 1 of Regulation (EEC) No 3576/90,

— to monitor the use of the products referred to in the second indent of Article 2 of Regulation (EEC) No 3576/90, the competent German authorities shall ensure that the rules laid down in Regulation (EEC) No 4142/87 are applied and respected.

Article 3

For products released for consumption in the territory of the former German Democratic Republic before 1 January 1991, the customs duties and, where relevant, the correcting amounts already collected shall be reimbursed to the extent of the quantities fixed pro rata in accordance with Article 1 (1) on receipt of a duty substantiated application from the party concerned.

For these purposes, the party concerned shall submit an application by 31 March 1991 at the latest to the competent German authority managing the tendering system referred to in Article 1 (2) along with the control certificate referred to in Article 1 of Regulation (EEC) No 2638/69 which has accompanied the carriage of the product. This authority shall issue a licence certifying that the product in question eligible under Article 1 of Regulation (EEC) No 3576/90. Where the total quantities for which reimbursement is requested exceeds those fixed pursuant to Article 1 (1), the quantity of each application shall be reduced in proportion to the overrun.

Reimbursement shall be made before 31 July 1991.

Article 4

Germany shall notify the Commission, at the latest before the 20th day of each month for the previous month, of the quantities of product benefiting from suspension, the type of suspension and the product category.

The Commission shall immediately inform the other Member States thereof.

Article 5

This Regulation shall enter into force on 1 January 1991.

It shall apply from 3 October 1990.

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

Done at Brussels, 19 December 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

(tonnes)

CN code	Description	Average annual quantities	
		Spain	Portugal
0702 00	Tomatoes	10	—
0805 10	Oranges	37 700	—
0805 30 10	Lemons	20 900	—
0810 10	Strawberries	20	—