COUNCIL REGULATION (EEC) No 1122/92

of 28 April 1992

amending Regulation (EEC) No 1796/81 on measures applicable to imports of preserved cultivated mushrooms

THE COUNCIL 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], and in particular Article 17 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 1796/81 [2] provides for an amount additional to the customs duty to be levied on imports of preserved cultivated mushrooms falling within subheading ex 20.02 A of the Common Customs Tariff in excess of a certain quantity;

Whereas Commission Regulation (EEC) No 964/91 of 18 April 1991 concerning the classification of certain goods in the combined nomenclature [3], classified under CN code 2003 10 10 certain completely simmered cultivated mushrooms of the Agaricus species which have undergone treatment to preserve them better during transport and storage prior to processing and which are generally used as a raw material by the preserves industry; whereas these products must therefore be subject to the import arrangements provided for in Regulation (EEC) No 1796/81;

Whereas for some time there has been a marked increase in imports of cultivated mushrooms which have been preserved, provisionally falling within CN code 0711 90 40, and they are now far in excess of the quantities traditionally placed in free circulation in the Community; whereas these products are used in the Community to manufacture preserved mushrooms; whereas in these circumstances Regulation (EEC) No 1796/81 should be applied to mushrooms which have been preserved provisionally, so as to ensure that the measures adopted for preserved mushrooms continue to be effective;

Whereas, however, so that trade between the Community and the countries which export these mushrooms can continue, the quantity provided for in the present legislation should be adjusted to the new situation;

Whereas in order to take account of existing trade flows it appears advisable to take as a basis for adjusting the quantity which is not subject to the levying of an additional amount the traditional pattern of trade in the mushrooms in question; whereas 1990 and 1991 should be the reference years for this purpose;

Whereas the Interim Agreement between the European Economic Community and Poland provides for the quantity allocated to that country under the import arrangements provided for in Regulation (EEC) No 1796/81 to be increased each year during the first five years for which it applies; whereas the overall quantity must take account of this increase as from 1992;

Whereas, given the features of supply from third countries on the Community market, the latter may be managed by fixing the additional amount so as to take account of the difference in production costs in the Community and the third countries concerned since the prices of the products in question fluctuate substantially and there is a need to discourage imports in excess of the quantity exempt from the additional amount;

Whereas the arrangements in question now concern two different presentations of mushrooms; whereas account should be taken of this situation when the additional amount is fixed and a different amount should be fixed for the two presentations concerned in line with the criteria set out above; whereas that amount should also be expressed in terms of a common unit of weight for the two presentations of mushrooms;

Whereas, in the interest of clarity, provisions which refer to Regulations which have since been repealed should be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1796/81 is hereby amended as follows:

1. in the title the words 'preserved cultivated mushrooms' shall be replaced by 'mushrooms of the species *Agaricus* spp. falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30'.

(1) OJ No L 49, 27. 2. 1986, p. 1. Regulation as last amended by Regulation (EEC) No 1943/91 (OJ No L 175, 4. 7. 1991, p. 1).
(2) OJ No L 183, 4. 7. 1981, p. 1.
(3) OJ No L 100, 20. 4. 1991, p. 14. Regulation as last amended by Regulation (EEC) No 3411/91 (OJ No L 321, 23. 11. 1991, p. 23).

2. Article 1 shall be replaced by the following:

'Article 1

All entry into free circulation in the Community of mushrooms of the species *Agaricus* spp. falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30 (1) other than that referred to in Article 4 shall be subject to the levying of an additional amount for quantities in excess of those laid down in Article 3.

(1) Taric codes for 1992: 0711 90 50*20, 2003 10 10*31 and *81, 2003 10 10*39 and *89.'

3. Article 2 (1) shall be replaced by the following:

'1. The additional amount is hereby fixed at ECU 278/100 kg drained for mushrooms of the species *Agaricus* spp. falling within CN code 2003 10 30 and at ECU 239/100 kg drained for mushrooms of the species *Agaricus* spp. falling within CN codes 0711 90 40 and 2003 10 20.'

4. Article 3 shall be replaced by the following:

'Article 3

1. The quantity referred to in Article 1 is hereby fixed at 57 620 tonnes for 1992, 58 460 tonnes for 1993, 59 860 tonnes for 1994, 61 260 tonnes for 1995 and 62 660 tonnes as from 1996.

2. Of this quantity, 28 840 tonnes are hereby allocated to Poland for 1992, 29 680 tonnes for 1993, 31 080 tonnes for 1994, 32 480 tonnes for 1995 and 33 880 tonnes as from 1996.

3. The remainder shall be allocated each year among the other supplier countries, account being taken of traditional Community trade flows and, in an appropriate manner, of any new suppliers.

4. The quantities shall be expressed in net weight excluding covering liquid (net drained weight) for mushrooms falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30.'

5. In Articles 4 and 6 the reference to Article 20 of Regulation (EEC) No 516/77 shall be replaced by a reference to Article 22 of Regulation (EEC) No 426/86.

Article 2

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

It shall apply from 1 May 1992.

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

Done at Luxembourg, 28 April 1992.

For the Council

The President

Arlindo MARQUES CUNHA