COMMISSION REGULATION (EC) No 1924/95

of 3 August 1995

laying down transitional measures for the application of the tariff quota arrangements for imports of bananas as a result of the accession of Austria, Finland and Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Austria, Finland and Sweden, and in particular Article 149 (1) thereof,

Whereas Commission Regulation (EEC) No 1442/93 [1], as last amended by Regulation (EC) No 1164/94 [2], lays down detailed rules for the application of the arrangements for importing bananas into the Community introduced by Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [3], as last amended by Regulation (EC) No 3290/94 [4];

Whereas, in order to facilitate the switchover from the arrangements applying in the new Member States before their accession to those resulting from the application of the rules on the common organization of the market in bananas, the Commission has adopted transitional measures for the first three quarters of 1995; whereas these measures were justified on administrative and technical grounds; whereas, firstly, it has proved impossible on administrative and technical grounds; whereas, firstly, it has proved impossible to classify the operators in the new Member States within the appropriate time and to determine the quantities marketed by them during the reference period 1991, 1992 and 1993 in accordance with Articles 3 and 5 of Regulation (EEC) No 1442/93; whereas, secondly, pending the adjustment of the tariff quota necessary in order to take account of the consumption demand of an enlarged Community of 15 Member States, import rights for operators in Austria, Finland and Sweden in respect of 1995 in accordance with Article 6 of the abovementioned Regulation could not be fixed without at the same time reducing the import rights fixed at the end of 1994 for the operators in other Member States in respect of 1995;

Whereas in accordance with the transitional measures adopted for the first three quarters of 1995 by Regulations (EC) No 3303/94 [5], (EC) No 479/95 [6] and (EC) No 1219/95 [7] respectively, operators established in Austria, Finland and Sweden who imported bananas in 1991, 1992 and 1993 were authorized to import a quantity of bananas determined on the basis of the average quantity they imported during that period; whereas, for the first quarter, therefore, authorizations to import were used, and for the second and third quarters were issued, for a total quantity of 258 671 tonnes;

Whereas to date the Council has not taken any decision to increase the tariff quota, on the basis of the proposal presented by the Commission;

Whereas, in order to meet the Community's supply requirements during the fourth quarter and avoid serious disturbance on the market, in particular sharp price rises as a result of insufficient supplies, and to prevent the interruption of the normal flow of imports, the Commission is persuaded that new transitional measures will have to be taken; whereas, to meet these objectives, it seems appropriate to fix a quantity of 353 000 tonnes in addition to the existing tariff quota of 2 200 000 tonnes for 1995, i. e. the increase proposed to the Council, calculated on the basis of the average net imports of bananas into the new Member States in 1991, 1992 and 1993;

Whereas the adjustment of the tariff quota would in principle result, firstly, in the determination, in respect of the whole of 1995, on this new basis, of import rights for operators in the Community as constituted on 31 December 1994 and for operators in the new Member States in accordance with Articles 18 and 19 of Regulation (EEC) No 404/93 and Articles 3 and 5 of Regulation (EEC) No 1442/93; whereas, secondly, this would in principle lead to the issue of import licences in respect of the final quarter of 1995 for the remaining balance of the tariff quota plus the additional quantity for all the various categories of operators;

Whereas, however, application of the mechanisms described above would meet with considerable difficulty in the new Member States in view, firstly, of the very high rate of recourse to the annual tariff quota and, secondly, of the origin of the bananas marketed and consumed in Austria, Finland and Sweden as well as, lastly, of the marketing structures for bananas in the new Member States;

Whereas in the first three quarters of 1995 import licences were issued and authorizations granted in the Community as a whole in respect of more than 90 % of the annual quota; whereas authorizations in the new Member States have had to be set against the existing quota of 2 200 000 tonnes; whereas, moreover, until now, supplies to the new Member States have consisted of

(1) OJ No L 142, 12. 6. 1993, p. 6.
(2) OJ No L 117, 24. 5. 1995, p. 14.
(3) OJ No L 47, 25. 2. 1993, p. 1.
(4) OJ No L 349, 31. 12. 1994, p. 105.
(5) OJ No L 341, 30. 12. 1994, p. 46.
(6) OJ No L 49, 4. 3. 1995, p. 18.
(7) OJ No L 120, 31. 5. 1995, p. 20.

'third country bananas' only and their operators have not marketed Community bananas or bananas originating in the ACP countries; whereas, for this reason, for the first three quarters, authorizations to import have been granted to opertaors in Category A; whereas the remaining balance of the tariff quota, including the additional quantity referred to above, does not permit, in the fourth quarter, the allocation among the various categories of operators pursuant to Article 19 of Regulation (EEC) No 404/93 in view of the authorizations to import granted already in Austria, Finland and Sweden since the beginning of 1995; whereas, furthermore, such an allocation would not make it possible for the supply requirements of the Community to be met;

Whereas, in view of the above and in order to avoid serious disturbance on the Community market as a whole in the fourth quarter, it seems appropriate, on a transitional basis, firstly, to allocate to 1995 as a whole the additional quantity of 353 000 tonnes to meet the consumption demand in the new Member States and, secondly, while complying with existing marketing structures, to confer, out of the balance available of this additional quantity for the fourth quarter, rights on operators established throughout the Community who, during the reference period 1991, 1992 and 1993, marketed bananas in Austria, Finland and Sweden; whereas access to this allocation must be determined on the basis of the average quantities marketed as provided for in Article 19 (2) of Regulation (EEC) No 404/93 and the conditions laid down in Articles 3 and 5 of Regulation (EEC) No 1442/93;

Whereas a portion of the available balance of the additional quantity should, to an extent commensurate with the situation and market needs, be allocated to operators in Category C in the new Member States who meet the requirements of the Community rules;

Whereas additional detailed rules should be laid down which are necessary for the administration of the measures introduced by this Regulation similar to the provisions adopted already for the application of the tariff quota arrangements; whereas, with regard to the submission of applications and the issue of import licences, the relevant provisions of the abovementioned Regulation (EEC) No 1442/93 should be made applicable together with those of Commission Regulation (EC) No 478/95 of 1 March 1995 on additional rules for the application of Council Regulation (EEC) No 404/93 as regards the tariff quota arrangements for imports of bananas into the Community and amending Regulation (EEC) No 1442/93 [1], as last amended by Regulation (EC) No 702/95 [2];

Whereas these transitional measures will be adopted without prejudice to the decisions which the Council may take before the end of 1995 on the basis of Commission proposals and, where appropriate, the rules necessary for their implementation;

Whereas the Management Committee for Bananas has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

A tariff quota of 353 000 tonnes (net weight), additional to the tariff quota provided for in Article 18 of Regulation (EEC) No 404/93, shall be opened for 1995 for imports into Austria, Finland and Sweden of bananas from third countries and of non-traditional ACP bananas.

The quantities in respect of which authorizations to import have been used in the first quarter and granted by the competent authorities of Austria, Finland and Sweden for the second and third quarters of 1995 in accordance with Regulations (EC) No 3304/94, (EC) No 479/95 and (EC) No 1219/95 shall be set against the overall quantity set in the first paragraph above.

Article 2

For the fourth quarter of 1995, import licences shall be issued with a view to the release for free circulation in Austria, Finland and Sweden of bananas from third countries and non-traditional ACP bananas, up to the amount of:

(a) 91 500 tonnes by the competent authorities of the Member States to operators who have marketed the bananas referred to above in Austria, Finland and Sweden during the reference period 1991, 1992 and 1993 and are registered in accordance with Article 3 of Regulation (EC) No 479/95;

(b) 2 500 tonnes to operators established in Austria, Finland and/or Sweden and who there satisfy the requirements of Article 3 (5) of Regulation (EEC) No 1442/93 and are registred pursuant to Article 4.

Article 3

1. In accordance with Article 2 (a) above, operators may request, for the fourth quarter of 1995, one or more import licences in respect of a total quantity determined on the basis of the annual average quantity of bananas marketed, within the meaning of Article 3 (1) of Regulation (EEC) No 1442/93, in the new Member States during the years 1991, 1992 and 1993, multiplied by the weighting coefficients fixed in Article 5 (2) of that Regulation and following application, where necessary, of the reduction coefficient set by the Commission pursuant to paragraph 3.

[1] OJ No L 49, 4. 3. 1995, p. 13.
[2] OJ No L 71, 31. 3. 1995, p. 84.

2. The competent authorities shall notify the Commission at the latest by 9 August 1995 of the total reference quantities weighted pursuant to paragraph 1 and the total quantity of bananas marketed in respect of each activity by operators registered with them.

3. Where the aggregate of the quantities determined for the operators concerned pursuant to paragraph 1 exceeds 91 500 tonnes, the Commission shall fix a standard reduction coefficient to be applied to the quantity determined for each operator.

4. The competent authorities shall notify each operator at the latest by 30 August 1995 of the total quantity in respect of which the operator may submit one or more requests for an import licence pursuant to Article 2 (a).

Article 4

1. For the purpose of applying Article 2 (b), the competent authorities of Austria, Finland and Sweden :

(a) shall register, at their request, operators in Category C who satisfy the requirements of Article 3 (5) of Regulation (EEC) No 1442/93 in the above Member States ; requests for registration shall be submitted at the latest by 9 August 1995 accompanied by an application for an allocation in accordance with Article 4 (4) of that Regulation ;

(b) shall notify the Commission at the latest by 18 August 1995 of the total quantity covered by applications for an allocation and of a list of operators who have submitted a request for registration.

2. If the quantity covered by applications for an allocation exceeds the quantity fixed in Article 2 (b), each application shall be reduced by a percentage determined by the Commission.

3. The competent authorities shall inform Category C operators of the quantities allocated to them by 30 August 1995 at the latest.

Article 5

The provisions of Regulations (EEC) No 1442/93 and (EC) No 478/95 concerning the submission of applications and the issue of licences in connection with the tariff quota and their period of validity in connection with this Regulation.

Section 20 of licence applications and of licences shall bear the words 'Valid for release for free circulation in Austria, Finland or Sweden — Regulation (EC) No 1924/95'.

Article 6

On the determination of reference quantities in respect of any period that includes 1995, the rights of all operators who have supplied the new Member States, for the whole of 1995, shall be determined in accordance with Articles 3 and 5 of Regulation (EEC) No 1442/93.

Article 7

The provisions of this Regulation shall be without prejudice to any measures that may be adopted in implementation of a Council Decision to increase the tariff quota for 1995.

Article 8

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, 3 August 1995.

For the Commission

Hans VAN DEN BROEK

Member of the Commission