# COMMISSION REGULATION (EC) No 2125/95

## of 6 September 1995

## opening and providing for the administration of tariff quotas for preserved mushrooms of the genus *Agaricus* spp.

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 Commission Regulation (EC) No 1032/95 [2], and in particular Article 12 (1) thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations [3], and in particular Article 3 thereof,

Whereas, under the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community undertook to open from 1 July 1995, under certain conditions, Community tariff quotas for preserved mushrooms of the genus *Agaricus* spp. falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30; whereas these quotas should therefore be opened and conditions laid down for their administration, while ensuring that the transition between the system expiring on 30 June 1995 and the new system applicable from 1 July 1995 is as smooth as possible; whereas for this purpose the detailed rules of application of the old system should be carried over and the traditional import calendars should be maintained;

Whereas the import licences issued from 1 January to 30 June 1995 pursuant to Commission Regulation (EC) No 3107/94 [4], as amended by Regulation (EC) No 1032/95 [5], covered all the annual quantity available for China, 10 056 tonnes for Poland, 137 tonnes for Bulgaria, and 551 tonnes for all the other supplier countries; whereas no licences were issued for Romania; whereas quotas should therefore be opened for the period 1 July to 31 December 1995 corresponding to the balances available for each of the abovementioned countries or groups of countries;

Whereas the quantity to be imported should be allocated between the supplier countries, account being taken of traditional patterns of trade, of new suppliers and of preferences as provided for in the Europe Agreements with Bulgaria [6], Poland [7] and Romania [8];

Whereas provision should be made to review the allocation during a given year on the basis of the data available after the first six months of use; whereas a reserve should be established so as to avoid any interruption in trade with a supplier country when the overall quantity has not been exhausted;

Whereas detailed arrangements should be laid down to ensure that the quantities in excess of the tariff quotas are subjected to the levying of the full duty provided for in the Common Customs Tariff; whereas those arrangements must involve the issuing of licences at the end of a period in which the quantities are checked and the necessary notifications are made by the Member States; whereas these provisions are either supplementary to or derogate from the provisions of Commission Regulation (EC) No 1921/95 of 3 August 1995 laying down detailed rules for the application of the system of import licences for products processed from fruit and vegetables and repealing Regulations (EEC) No 2405/89 and (EEC) No 3518/86 [9], and Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [10], as last amended by Regulation (EC) No 1199/95 [11];

Whereas a distinction should be drawn between traditional importers and new importers and certain criteria relating to the status of the applicants and the use of the licences allocated should be laid down; whereas, lastly, the quantities for each category of importer should be allocated fairly;

Whereas it is more appropriate to establish henceforth an allocation between traditional importers on the basis of the quantities imported rather than on the basis of the licences issued; whereas, for administrative reasons, provision should nevertheless be made to retain the transitional period provided for in Regulation (EC) No 3107/94;

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[1] OJ No L 49, 27. 2. 1986, p. 1.
[2] OJ No L 105, 9. 5. 1995, p. 3.
[3] OJ No L 349, 31. 12. 1994, p. 105.
[4] OJ No L 328, 20. 12. 1994, p. 37.
[5] OJ No L 105, 9. 5. 1995, p. 3.
[6] OJ No L 323, 23. 12. 1993, p. 2.
[7] OJ No L 348, 31. 12. 1993, p. 2.
[8] OJ No L 81, 2. 4. 1993, p. 2.
[9] OJ No L 185, 4. 8. 1995, p. 10.
[10] OJ No L 331, 2. 12. 1988, p. 1.
[11] OJ No L 119, 30. 5. 1995, p. 4.

Whereas, to ensure the correct use of the quotas, provision must be made for regular notification by the Member States of the quantities for which licences have not been used;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables and the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

Tariff quotas for preserved mushrooms of the genus *Agaricus* falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30, shown in Annex I, shall be opened subject to the conditions laid down in this Regulation.

The rate of duty applicable shall be 12 % *ad valorem* in the case of products falling within CN code 0711 90 40 and 23 % in the case of products falling within CN codes 2003 10 20 and 2003 10 30. However, for Bulgaria, Poland and Romania, the duty shall be 8,4 % for products falling within these three codes.

*Article 2*

1. All imports forming part of the quotas referred to in Article 1 shall be subject to submission of an import licence issued in accordance with this Regulation.

2. The quotas shall be allocated among the supplier countries in accordance with Annex I, column I for the period 1 July to 31 December 1995 and Annex I, column II for each of the following calendar years, apart from a part thereof which shall constitute a reserve.

3. The allocation may be adjusted on the basis of information regarding the quantities for which licences have been issued as at 30 June.

*Article 3*

1. Regulation (EC) No 1921/95 shall apply, with the exception of Article 5 (2) thereof, subject to the provisions of this Regulation.

2. Import licences shall be valid for a period of six months from the effective date of issue within the meaning of Article 21 (2) of Regulation (EEC) No 3719/88, but shall not be valid after 31 December of the year concerned.

*Article 4*

1. Both quantities, namely that allocated to China on the one hand and that allocated to all the other countries with the exception of China on the other hand pursuant to the Annex to this Regulation, shall be distributed as follows:

(a) 85 % to traditional importers.

'Traditional importers' shall mean importers who have obtained import licences pursuant to Council Regulation (EEC) No 1796/81 [1] or this Regulation in each of the previous three calendar years and who have imported the products refered to in Article 1 in at least two of the previous three calendar years. The first condition relating to the procurement of import licences shall not apply until 1 January 1998 to importers who are Austrian, Finnish or Swedish nationals.

(b) 15 % to new importers.

'New importers' shall mean importers other than those referred to in (a) who are traders, natural or legal persons, individuals or groups trading for at least one year. Compliance with this condition shall be certified by registration in a trade register held by the Member State or by any other proof accepted by the Member State. When an importer in this category has obtained import licences pursuant to Regulation (EEC) No 1796/81 or this Regulation in the previous calendar year, he must show proof of having put in free circulation, on his own account, at least 50 % of the quantity allocated to him.

2. The importers referred to in paragraph 1 shall attach to their application information enabling the competent national authorities to verify to their satisfaction fulfilment of the conditions set out in paragraph 1 (a) or (b).

3. Any quantities still available on 15 October shall be allocated without discrimination between both categories of importer.

*Article 5*

1. Licence applications submitted by the traditional importers referred to in Article 4 (1) (a) may not relate, in any six-month period, to a quantity exceeding 60 % of the average annual quantity of imports effected during the preceding three calendar years, an exception being made in the case of importers in the Community as constituted on 31 December 1994 for the years 1992, 1993 and 1994, for which the reference used shall be the annual quantity of import licences issued.

2. Licence applications submitted by the new importers referred to in Article 4 (1) (b) may not relate, in any six-month period and for each of the two groups of countries specified in that Article, to a quantity exceeding 8 % of the quantity allocated pursuant to the said Article 4 (1) (b) to each of the two groups of countries referred to.

[1] OJ No L 183, 4. 7. 1981, p. 1.

*Article 6*

1. Member States shall notify the Commission of the quantities applied for under the quotas referred to in Article 1 in accordance with Article 7 (2) of Regulation (EC) No 1921/95, giving separate figures for the quantities applied for pursuant to Article 4 (1) (a) and (b) respectively.

2. Import licences shall be issued on the fifth working day following that on which applications are lodged, provided that no special measures are taken by the Commission in the meantime.

3. If the quantities applied for exceed for any supplier country the quantity available, the Commission shall allocate the excess quantities from the reserve mentioned in Article 2 (2).

4. If, after allocation of the reserve, the quantities applied for exceed the quantity available, the Commission shall set a flat-rate percentage reduction for the applications in question and suspend the issue of licences in respect of subsequent applications.

*Article 7*

The Commission shall keep the Member States regularly informed of the extent of utilization of the quotas and, at the appropriate time, of their exhaustion.

*Article 8*

Member States shall notify the Commission of the quantities for which import licences have been issued but not used as soon as the information is available to them.

*Article 9*

1. Article 33 (5) of Regulation (EEC) No 3719/88 shall apply.

2. In the case of quantities imported within the tolerance referred to in Article 8 (4) of Regulation (EEC) No 3719/88 the import duty provided for in the Common Customs Tariff (CCT) shall be levied in full.

*Article 10*

1. The entry into free circulation of mushrooms originating in China shall be subject to Articles 55 to 65 of Commission Regulation (EEC) No 2454/93 (1). In the event of loss of the original, and notwithstanding Article 57 (2) of the abovementioned Regulation, the competent authorities may accept a duplicate of the certificate of origin.

2. The authorities competent to issue the certificate of origin and duplicates shall be those indicated in Annex II.

3. Products originating in Bulgaria, Poland and Romania shall be released for free criculation in the Community on presentation of an EUR 1 certificate issued by the authorities of those countries in accordance with Protocol 4 of the Europe Agreements.

*Article 11*

1. Import licences shall show the following in box 24, in one of the official languages of the European Union :

— 'Derecho de aduana ... % — Reglamento (CE) nº 2125/95',
— 'Toldsats ... % — forordning (EF) nr. 2125/95',
— 'Zollsatz ... % — Verordnung (EG) Nr. 2125/95',
— 'Δασμός ... % — Κανονισμός (ΕΚ) αριθ. 2125/95',
— 'Customs duty ... % — Regulation (EC) No 2125/95',
— 'Droit de douane : ... % — Règlement (CE) nº 2125/95',
— 'Dazio : ... % — ... Regolamento (CE) n. 2125/95',
— 'Douanerecht : ... % — Verordening (EG) nr. 2125/95',
— 'Direito aduaneiro : ... % — Regulamento (CE) nº 2125/95',
— 'Tulli ... prosenttia — Asetus (EY) N:o 2125/95',
— 'Tull ... % — Förordning (EG) nr 2125/95'.

2. If the country of origin is Bulgaria, Poland or Romania, import licences shall also include in box 24, in one of the official languages of the European Union :

— 'Acuerdo',
— 'Aftale',
— 'Abkommen',
— 'Συμφωνία',
— 'Agreement',
— 'Accord',
— 'Accordo',
— 'Overeenkomst',
— 'Acordo',
— 'Sopimus',
— 'Avtal' ;

followed by the name of the country concerned and the words :

— 'Derechos de aduana reducidos tal como prevé el Acuerdo',
— 'Toldsats nedsat som fastsat i aftalen',
— 'Im Abkommen vorgesehene ermäßigte Zollsätze',
— 'Μειωμένοι δασμοί όπως προβλέπονται στη συμφωνία',
— 'Reduced customs duties as provided for in the Agreement',
— 'Droits de douane réduits comme prévu dans l'accord',
— 'Diritti doganali ridotti come previsto nell'accordo',

(1) OJ No L 253, 11. 10. 1993, p. 1.

— 'Verlaagde douanerechten zoals voorzien in de overeenkomst',

— 'Direitos aduaneiros reduzidos como previsto no acordo',

— 'Sopimuksessa määrätyin alennetuin tullein',

— 'Nedsatt tull i enlighet med avtalet'.

*Article 12*

1. The holder of an import licence may apply to have the CN code for which the licence was issued changed, provided that :

(a) the new CN code applied for is one of those listed in Article 1 ;

(b) the application is submitted to the body that issued the original licence and is accompanied by the original and any extract issued.

2. The body that issued the original licence shall keep it and any extract and shall issue a replacement licence and, where appropriate, one or more extracts from the replacement licence.

3. The replacement licence and, where appropriate, the extract or extracts shall :

— be issued for a quantity up to the maximum quantity available according to the document replaced,

— indicate in box 20 the number and date of the document replaced,

— indicate in boxes 13, 14 and 15 the information relating to the new product in question,

— indicate in box 16 the new CN code,

— indicate in the other boxes the same information as shown on the replaced document, and in particular the same expiry date.

4. Member States shall immediately inform the Commission of any change of CN code on import licences they have issued.

*Article 13*

Regulation (EC) No 3107/94 is hereby repealed.

The amount to be levied on imports from 1 July 1995 on the basis and during the period of validity of licences free from the additional amount issued pursuant to Regulation (EC) No 3107/94 shall be the *ad valorem* duty shown in Article 1.

*Article 14*

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

It shall apply with effect from 1 July 1995.

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

Done at Brussels, 6 September 1995.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

*ANNEX I*

**Allocation referred to in Article 2 (net drained weight)**

*(in tonnes)*

| Supplier countries | Column I | Column II |
|---|---|---|
| | From 1 July to 31 December 1995 | From 1 January to 31 December of subsequent years |
| Bulgaria | 1 223 | 1 360 |
| Poland | 23 824 | 33 880 |
| Romania | 380 | 380 |
| China | 0 | 22 750 |
| Others | 1 339 | 3 290 |
| Reserve | 0 | 1 000 |
| Total | 26 766 | 62 660 |

*ANNEX II*

The competent authorities referred to in Article 10 (2) are:

— Shanghai Foreign Economic Relations and Trade Commission,

— Fujian Foreign Economic Relations and Trade Commission,

— Guangxi Foreign Economic Relations and Trade Commission,

— Zhejiang Foreign Economic Relations and Trade Commission,

— Jiangsu Foreign Economic Relations and Trade Commission,

— Sichuan Foreign Economic Relations and Trade Commission,

— Chongquing Foreign Economic Relations and Trade Commission,

— Anhui Foreign Economic Relations and Trade Commission,

— Guangdong Foreign Economic Relations and Trade Commission,

— Foreign Trade Administration, Ministry of Foreign Trade and Economic Cooperation (MOFTEC).