COMMISSION REGULATION (EC) No 359/2004

of 27 February 2004

laying down transitional measures applicable to Regulation (EC) No 2125/95 by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first subparagraph of Article 41 thereof,

Whereas:

(1) Transitional measures should be laid down in order to allow importers from the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as 'the new Member States') to benefit from the provisions contained in Commission Regulation (EC) No 2125/95 of 6 September 1995 opening and providing for the administration of tariff quotas for preserved mushrooms [1].

(2) Arrangements should be laid down for the year 2004 to ensure that, as from the date of accession, a distinction between traditional importers and new importers within the meaning of Article 4(1) of Regulation (EC) No 2125/95 and traditional importers and new importers from new Member States is made.

(3) To ensure the correct use of quotas and allow traditional importers from the new Member States to be in a position to apply for sufficient quantities during the year 2004, provisions should be made for the year 2004 to adjust the quantity to which licence applications presented by traditional importers from the new Member States may relate.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation:

1. 'current Member States' shall mean the Member States of the Community as constituted on 30 April 2004;

2. 'new Member States' shall mean the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

Article 2

By way of derogation from Article 4(1)(a) of Regulation (EC) No 2125/95, for the year 2004 and only in the new Member States, 'traditional importers' shall mean importers who can prove that:

(a) they have imported, from origins other than the new Member States or the current Member States, the products referred to in Article 1(1) of Regulation (EC) No 2125/95 in at least two of the three calendar years preceding 2004;

(b) they have also imported and/or exported during the year 2003 at least 100 tonnes of processed fruit and vegetable products, as referred to in Article 1(2) of Council Regulation (EC) No 2201/96 [2].

Imports shall have taken place in the new Member State where the importer concerned is established or has its head office, and exports shall have been sent to destinations other than the new Member States or the current Member States.

Article 3

By way of derogation from Article 4(1)(b) of Regulation (EC) No 2125/95, for the year 2004, and only in the new Member States, 'new importers' shall mean importers other than traditional importers within the meaning of Article 2 of this Regulation who are traders, natural or legal persons, individuals or groups, which can prove that they have imported, from origins other than the new Member States or the current Member States, and/or exported at least 50 tonnes of processed fruit and vegetable products, as referred to in Article 1(2) of Regulation (EC) No 2201/96, in each of the two calendar years preceding 2004.

[1] OJ L 212, 7.9.1995, p. 16. Regulation as last amended by Regulation (EC) No 1142/2003 (OJ L 160, 28.6.2003, p. 39).

[2] OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Regulation (EC) No 1239/2001 (OJ L 171, 26.6.2001, p. 1).

Imports shall have taken place in the new Member State where the importer concerned is established or has its head office, and exports shall have been sent to destinations other than the new Member States or the current Member States.

Article 4

1. By way of derogation from Article 5(1) of Regulation (EC) No 2125/95, licence applications presented in May 2004 by the traditional importers of the new Member States shall not relate to a quantity exceeding 65 % of the average annual quantity of imports in the Member State concerned originating in countries other than the current Member States, Poland, Bulgaria and Romania in the three previous calendar years.

2. By way of derogation from Article 5(2) of Regulation (EC) No 2125/95, licence applications presented in May 2004 by the new importers of the new Member States shall not relate to a quantity exceeding 8 % of the quantity allocated pursuant to Article 3 of this Regulation.

Article 5

This Regulation shall enter into force on 1 May 2004 subject to the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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

Done at Brussels, 27 February 2004.

For the Commission
Franz FISCHLER
Member of the Commission