Definitive safeguard measures were imposed on the imports of certain prepared or preserved citrus fruits (such as mandarins) on 7 April 2004 pursuant to Commission Regulation (EC) No 658/2004 (1). By virtue of Council Regulation (EC) No 3285/94 (2) and Council Regulation (EC) No 519/94 (3), and in particular Article 21 and Article 18 thereof, the Commission has consulted the Member States on the application of the safeguard measures.

The Commission officially advised the Community producers and their association, the importers and traders and their associations, the suppliers, the exporting producers in China and their associations, of the initiation of a mid-term review, by a Notice of 4 June 2005 (4).

Following an examination of the effects, the appropriateness of continuing the measures, and the pace of liberalization, the Commission informed the Member States of the findings of the investigation. Consultations were held within the Advisory Committee established under Article 4 of Regulation (EC) No 3285/94 and Article 4 of Regulation (EC) No 519/94.

2. Procedure

2.1. Scope of consultations

Article 21(1) of Regulation (EC) No 3285/94 and Article 18(1) of Council Regulation (EC) No 519/94 obliges the Commission to consult on the application of the measures with Member States no later than at the mid-point of the period of application of the measures.

In compliance with the relevant provisions, the purpose of the investigation has been to:

(a) examine the effects of the safeguard measures;

(b) determine whether and in what manner, it would be appropriate to accelerate the pace of liberalization; and

(c) ascertain whether its application is still necessary.

2.2 Period of investigation

In this sector of activity, the canning season starts in October each year. Data are analysed on for each canning season, that is to say, according to periods running from October to September of the following year. The original investigation analysed the data relevant for the period 1998/1999 up to 2002/03. The current investigation covers the periods 2003/04 and 2004/05.

It is recalled that production of canned mandarins is concentrated in Spain.

2.3. Parties concerned by the proceeding

Questionnaires were sent to all parties known to be concerned by the proceedings and to all other companies that made themselves known within the deadlines set out in the Notice.

Replies were received from five Community producers, five suppliers, eleven importers, seven exporters/traders and two associations.

The Commission’s services sought and verified all the information deemed necessary for the purpose of the investigation and verification inspections were carried out at the premises of the following companies:

Community producers

— Halcon Foods, S.A., Murcia, Spain
— Alcurnia Alimentacion, S.L., Murcia, Spain
— Conservas y Fruta S.A., Murcia, Spain
— Industrias Videca S.A., Valencia, Spain
— Agricultura y Conservas, S.A., Valencia

1 Definitive safeguard measures were imposed on the imports of certain prepared or preserved citrus fruits (such as mandarins) on 7 April 2004 pursuant to Commission Regulation (EC) No 658/2004 (1).


3 OJ L 67, 10.3.1994, p. 89.

Suppliers

— Cooperativa Agrícola Ntra Sra del Orente Coop. V, Valencia

Unrelated importers

— Wünsche Handelsgesellschaft International mbH & Co., KG, Hamburg, Germany
— I. Schröder KG (GmbH & Co), Hamburg, Germany
— Edeka Zentrale AG & Co. KG, Hamburg, Germany
— Hüpeden & Co. (GmbH & Co.) KG, Hamburg, Germany

3. Restructuring

As is envisaged in recital 120 of Regulation (EC) No 658/2004, the restructuring efforts made by the Community’s canned mandarin producers were examined in the review. The main result of the restructuring process thus far has been to cut last season’s capacity of 33,000 tonnes. This cut corresponds to 25% of the original total capacity. Efforts have also been undertaken to rationalise the supply of raw material and to establish more cost effective sales and distribution channels, with the aim of achieving a more efficient production chain whilst allowing greater economies of scale. Main features of the activities carried out to date include the cessation of mandarin-canning activities by certain producers, take-overs of companies, the establishment of a cooperative company for the purpose of joint purchasing, and the introduction of a new production line system.

The results of the restructuring are now becoming visible, and should over time encourage the initiation of even further restructuring activities. Expected activities include the finalisation of processes leading to technical improvement of the production. Further effects and economies of scale resulting from the consolidation of such activities as the reduction of production and establishment of cooperative companies are also envisaged.

4. Results of the investigation

Analysis of the measures in place is based on data gathered for the three last canning seasons. Figures supplied for the year 2002/03 are those reported in the Regulation (EC) No 658/2004 setting the definitive safeguard measures on imports of canned mandarins. These figures are reported here as a reflection of the situation in the industry at the time of initiation of the proceeding, before the original investigation took place. The data reported for the year 2003/04, which were checked during the current mid-term review, relate to a period when investment leading to the imposition of the measures was underway. The data relating to the year 2004/05 correspond to a period falling after the measures were imposed.

4.1 Imports

4.1.1. Volume of imports

The following tables present imports from China to the EU-25. Imports from all other countries are negligible as they represent less than 2% of the total imports, or 1,000 tons per year. (Volume in Tonnes, seasonal data from October to September)

<table>
<thead>
<tr>
<th>Year</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05 (*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume</td>
<td>50,500</td>
<td>63,900</td>
<td>46,600 (*)</td>
</tr>
</tbody>
</table>

(*) Extrapolated on the basis of 10 months sales
(Source: Eurostat)

During the season of 2004/05, import volumes stabilised at around 47,000 tonnes. Approximately 60% of the 2004/05 imports took place in March and April 2005, just before the expiry of the licence period. This stabilisation in the imports followed a period of rise in imports, reaching a level of 63,900 tonnes in 2003/04. The import peak in 2003/04 was probably due to the anticipation of the imposition of definitive measures.

Imports into some Member States more than tripled between the 2002/03 season and the 2004/05 season. Other Member States, traditionally not importers, started to import canned mandarins from China. On the other hand, some of the accession countries imported big quantities during the two months leading up to the accession and then, in some cases, imports completely stopped after the enlargement of the European Union in May 2004.

It will be recalled that imports were subjected to a system of tariff quotas of around 32,000 tonnes for imports from China and of around 2,000 tonnes for imports originating in other countries. When the quota is exhausted a duty of EUR 301 per tonne (‘EUR/T’) is payable. On these grounds, it is clear that imports were made both within the quota and outside it, then the latter being subject to the payment of the duty. This demonstrates that EU demand is satisfied.

4.1.2. Import prices

<table>
<thead>
<tr>
<th>Year</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05 (10 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price</td>
<td>595</td>
<td>524</td>
<td>520</td>
</tr>
</tbody>
</table>

Index

<table>
<thead>
<tr>
<th>Year</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index</td>
<td>100</td>
<td>88</td>
<td>87</td>
</tr>
</tbody>
</table>

(Source: Eurostat)
Import prices at cif EU border level were found to be decreasing and fell from 595 EUR/T in 2002/03, down to 524 EUR/T in 2003/04 and further down to 520 EUR/T during the season 2004/05. Prices dropped by a total of 13 % between the season 2002/03 and the season 2004/05. This drop was mainly the result of the depreciation of the US dollar against the euro. It is recalled that imported canned mandarins are invoiced in US dollars, which depreciated by 18 % over the period. The increase of the invoiced price in US dollars of 5 % was therefore counterbalanced by the depreciation, resulting in an effective price drop of 13 % (18 %-5 %). A slight increase in the import price was, however, observed as from January 2005.

4.2 Situation of the Community producers

In order to assess the effect of the measures, an examination of the relevant economic factors has been conducted by the Commission. The fact that the production volume is decided once a year at the start of the canning season in November must be taken into account when analysing the findings of the investigation.

4.2.1. Production capacity and capacity utilisation

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capacity</td>
<td>129 000</td>
<td>129 000</td>
<td>96 000</td>
</tr>
<tr>
<td>Capacity utilisation</td>
<td>31 %</td>
<td>22 %</td>
<td>40 %</td>
</tr>
</tbody>
</table>

Production capacity remained stable between the seasons 2002/03 and 2003/04 and decreased by around 25 % in the season 2004/05 (see point 3 above — restructuring) This led to a slight improvement of capacity utilisation from 20 % in 2003/04 to 40 % in 2004/05.

4.2.2. Production

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tonnes</td>
<td>39 600</td>
<td>28 200</td>
<td>38 000</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>71</td>
<td>96</td>
</tr>
</tbody>
</table>

Production recovered during 2004/05 — the season that followed the imposition of the definitive measures. EU production had, prior to this time, been in sharp and constant decline due to massive imports from China. The lowest point of production was reached in the season 2003/04 when the output was down to 28 200 tonnes. This downturn in production coincided with the period where definitive safeguard measures were not yet in place.

At the time, many of the Community producers were considering stopping the production of canned mandarins altogether, as they were close to bankruptcy.

Production volume is still mainly determined by the relationship between the cost of production and the expected sale price. The expected sale price is in turn mainly determined by the price level of imports from China. Imports from the quota allocated to countries other than China are minimal, and are therefore not having a material impact on Community producers’ sale prices.

4.2.3. EU sales

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05 (e)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tonnes</td>
<td>28 000</td>
<td>23 000</td>
<td>28 000</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>82</td>
<td>100</td>
</tr>
</tbody>
</table>

(*) Extrapolated on the basis of 9 months sales

Owing to increased competitiveness and a moderate raise of the import prices during the last months, sales recovered during the 2004/05 season. This recent positive development follows a negative trend that had persisted until the 2003/04 season.

4.2.4. Consumption

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05 (e)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tonnes</td>
<td>79 000</td>
<td>82 000</td>
<td>84 000</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>104</td>
<td>106</td>
</tr>
</tbody>
</table>

(Source: Eurostat data and companies estimate)

EU-25 consumption has increased moderately in the last two seasons, mainly owing to a growing consumption as a consequence of the enlargement of the European Union in 2004.

4.2.5. Market share

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community producers</td>
<td>35 %</td>
<td>28 %</td>
<td>33 %</td>
</tr>
</tbody>
</table>

The Community producer market share partially recovered to 33 % after the imposition of definitive safeguard measures in 2004/05. The recovery followed a decrease from 35 % in 2002/03 down to 28 % in 2003/04.

4.2.6. Employment, hours worked and productivity

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment</td>
<td>2 343</td>
<td>2 224</td>
<td>1 970</td>
</tr>
<tr>
<td>Hours worked</td>
<td>675 000</td>
<td>475 000</td>
<td>580 000</td>
</tr>
<tr>
<td>Hours worked/tonne</td>
<td>17,0</td>
<td>16,8</td>
<td>15,3</td>
</tr>
</tbody>
</table>
The production of canned mandarins is seasonal and a majority of the workforce is accordingly made up of temporary employees. Productivity for this mature product is fairly stable and variances are mainly linked to yield and the characteristics of the fresh product. The restructuring process during the investigated season of 2004/05 has, however, added technical improvements as a factor enhancing productivity and has resulted in a decrease in hours worked per tonne produced.

4.2.7 Undercutting

The investigation revealed that the price undercutting increased after the imposition of definitive safeguard measures. The main factor contributing to this development would be the depreciation of the US dollar (refer to part 4.1.2 above).

(Source: Eurostat and companies’ data)

4.2.8 Profitability

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net profit/loss EU sales</td>
<td>- 4.3 %</td>
<td>- 6.5 %</td>
<td>- 5.5 %</td>
</tr>
</tbody>
</table>

(Source: Companies’ results)

During the 2004/05 season, results of the Community Producers started to recover slowly as production increased and import prices first stabilised. As from January 2005, the prices started to increase. This positive development followed a period of poor results in 2003/04. Weak sales volumes, increasing import volumes at an extremely low price, and the fact that the provisional safeguard measures were yet not effective, were all factors that contributed to these weak results in 2003/04.

4.3. Situation of other interested parties

4.3.1. Exporters

More than 98 % of the total exports originate in the People’s Republic of China. Questionnaires were sent to the exporters, and the information gathered represented around 20 % of the total volume exported to the EU and therefore had to be complemented by data from Eurostat. The information obtained in the questionnaires roughly confirmed the data obtained through Eurostat.

4.3.2. Importers/retail chains

On average, 75 % of the imports of canned satsumas to the EU are made by German importers and retail chains while the remaining 25 % is split mainly between the Czech Republic, the Netherlands, United Kingdom and Belgium. The current investigation confirmed that the licence system in place is functioning properly and that licenses are fully used by the traditional importers. The financial situation for the importers has continued to be secure with inter alia an average profitability of approximately 15 % for the canned mandarins sector.

5. Analysis of the findings

5.1 Assessment of the effect of the measures

Positive effects have been observed as a result of the measures imposed.

The imposition of the measures allowed the Community producers to embark on a restructuring process. The substantial cut in capacity achieved as a result thereof, in combination with measures still to be enacted, should allow the sector to become increasingly competitive, to maximise productivity and to take advantage of economies of scale.

Imports have stabilised after the peak in 2003/04 and in the 2004/05 season, the measures resulting in a decrease in the volume of imports. Import prices that previously had been decreasing began to increase in 2005.

The overall results of the Community producers for the investigated period are still negative, but are improving when compared to the previous season. The combination of increased competitiveness of the Community industry and the increase in import prices have resulted in a recovery of the EU producer’s sales and production. Profitability, which in the season 2003/04, was down to -6.5 % has recovered to -5.5 % in the season 2004/05.

Considering the ongoing restructuring process, the import trends and the improving situation of the Community producers, the conclusion to be drawn is that the measures enacted under Commission Regulation (EC) No 658/2004 are effective.

5.2 Assessment of the necessity to continue the application of the measures

It is only the most recent trends that have shown that the positive results of the safeguard measures have begun to materialise. This is, however, to be expected, since definitive measures have only been effective for one canning season.

The restructuring process has begun and has so far resulted in a cut of capacity of 25 %. Further activities are to be expected in the coming years and the finalisation of this process will consequently require more time.

Although the volume of imports has decreased, the quota of 32 000 tonnes is exceeded regularly and price undercutting has increased, mainly on account of the depreciation of the US dollar.
As was concluded in Part 5 above, the financial results of the Community producers for the investigated period are improving in comparison to the previous season, but the overall results are still negative. Similarly, the production, market share and sales of the Community producers in 2004/05 are starting to recover but are still equal to, or slightly below, the figures in 2002/03.

Whilst recognising the increasingly positive effect of the measures, the Community producers have asked for an increase of the additional duty to a level which could prevent imports beyond the quota. Producers would, moreover, be in favour of the introduction of a minimum price system set at a reasonable level in order to prevent erratic import prices.

However, no provision for increasing the level of the protection as a result of the mid-term investigation is contained in Article 21 of the basic Regulation (EC) No 3285/94 on the common rules for imports or in the relevant WTO rules.

The cooperating importers have opposed the establishment of a minimum price, arguing that such a system would be inappropriate, owing to the risk of cross-subsidisation between mandarins and other canned items that are imported. Furthermore, some of the traditional importers would prefer that their present ratio of 75% allocated be increased to 95% in order to prevent speculation on licences. As to the amount of the tariff quota, some of the importers ask for a substantial increase, alleging that the EU producers lack sufficient raw materials (fresh mandarins) to meet the demand of the domestic market.

The investigation has conversely revealed that the crop of fresh satsumas, although slightly decreasing, is available on the market in sufficient quantities and at reasonable prices. As to the arguments relating to the calculation and allocation of the amounts within the tariff quota, established practice in these cases requires that sufficient possibilities remain open to other actors on the market in order to ensure that competition is maintained. An amendment to the allocation and calculation of the quota would consequently be inappropriate.

Considering the existing Chinese capacities and the fact that the Community producers’ situation is still fragile, the abolition of the measures would endanger the completion of the ongoing restructuring process. China has the capability to simultaneously supply the markets of Japan, USA and Europe and can easily adapt to world demand.

The additional duty, to be paid once the quota is used up, must similarly still be considered appropriate when taking into account the big gap between the Chinese prices at CIF EU border level and European prices and the underselling found to exist.

In view of the above, the Commission therefore concludes that the application of the present safeguard measures is still necessary to facilitate the adjustment of Community producers and to allow the continuation of the restructuring process as well as the further recovery from the current negative economic situation.

5.3 Assessment of the pace of liberalization

As foreseen by the WTO and the Community legal framework, a gradual liberalization of the measures is already in place. To this end, an annual 5% increase of the quota is provided through Commission Regulation (EC) No 658/2004. Despite the additional duty, imports are above the ceiling of the 32,000 tonnes a year tariff quota. The investigation has demonstrated that improvement of the economic indicators of the EU producers and their ongoing restructuring process does not exceed the pace foreseen and matches the reasonable expectations of the time when the measures were imposed. Thus the recovery and restructuring process needs more time to achieve its effects than one single canning season. The situation of the importers has not changed and remains positive.

An expansion of the import tariff quota would indeed jeopardise the ongoing restructuring processes and would undermine the effect of the measures. On this basis, the Commission considers that the pace of liberalization of the imports foreseen in Regulation (EC) No 658/2004 is adequate and that it would be inappropriate to accelerate it.

6. Final considerations

The above findings demonstrate that the situation of the Community producers is gradually improving as a result of the measures. A restructuring process in line with the expectations of the current proceeding is also ongoing: the full effects are expected to materialise in the next years.

The established tariff quota has been exceeded throughout the period investigated, demonstrating that the specific duty is not excessive and allows ample outsourcing of the Community market. The current pace of liberalization should not be further accelerated if measures are to remain effective so as to allow the recovery of Community producers.

7. Conclusion

The Commission's analysis, supported by the Advisory Committee, therefore concludes that the application of the safeguard measures in force is effective, still necessary and that the current pace of liberalization is appropriate.

The measures in place should therefore continue in their current form and at their present level, without any amendments.