

COMMISSION REGULATION (EEC) No 3758/90

of 21 December 1990

on a protective measure applicable to imports of provisionally preserved cultivated mushrooms

THE COMMISSION 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⁾, as last amended by Regulation (EEC) No 2201/90⁽²⁾, and in particular Article 18 (2) thereof,

Whereas Council Regulation (EEC) No 521/77 of 14 March 1977 lays down detailed rules for applying protective measures in the market in products processed from fruit and vegetables⁽³⁾;

Whereas the quantities of cultivated mushrooms, provisionally preserved but unsuitable for consumption in that state, released for free circulation in the Community since the beginning of 1990 are constantly increasing;

Whereas the levels of prices maintained by the main third country suppliers for the 1990/91 marketing year are lower than those for similar products obtained in the Community; whereas it is difficult, therefore, to market the latter;

Whereas Commission Regulation (EEC) No 2891/90 of 5 October 1990 on the issue of import licences for provisionally preserved cultivated mushrooms⁽⁴⁾ fixes the maximum quantity of that product which may be released for free circulation for 1990;

Whereas there is a danger that from 1 January 1991 applications for import licences may be excessive in relation to requirements and be submitted for speculative reasons, in view of the uncertainty of the outcome of the discussions now in hand with certain exporting countries; whereas this could create serious disturbances on the Community market which could undermine the objectives of Article 59 of the Treaty; whereas it is necessary, therefore, to apply protective measures from 1 January 1991;

Whereas the protective measures must be such as to prevent large-scale imports during a very limited period; whereas, to that end, taking into consideration the criteria laid down in Regulation (EEC) No 521/77, pending the customs of the abovementioned discussions, the quantity

of the products in question which may be released for free circulation for the first quarter of 1991 should be determined on the basis of the quantities imported during the previous year and of a rate of increase that reflects the smooth development of trade;

Whereas, in order to ensure that the said quantity is properly used and avoid the submission of applications for speculative reasons, the bulk of the quantity should be reserved for importers who in the past obtained supplies of provisionally preserved cultivated mushrooms on the basis of the quantities they obtained in 1989 and 1990, while access to that quantity should be maintained for new importers;

Whereas, lastly, the additional rules necessary for the issue of the licences should be laid down; whereas such rules are complementary to or in derogation from the provisions laid down by Commission Regulation (EEC) No 2405/89 of 1 August 1989 laying down special detailed rules for the application of the system of import licences and advance fixing certificates for products processed from fruit and vegetables⁽⁵⁾, as amended by Regulation (EEC) No 619/90⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the first quarter of 1991, import licences shall be issued for 10 000 tonnes of cultivated mushrooms provisionally preserved but unsuitable for consumption in that state falling within CN code ex 0711 90 50.
2. Import licences shall be applied for and issued in accordance with Regulation (EEC) No 2405/89, without prejudice to the specific provisions of this Regulation.

Article 2

1. The quantity fixed in Article 1 (1) shall be allocated as follows:
 - (a) 9 000 tonnes to importers who submitted applications for import licences for the products in question in the course of 1989 and 1990;
 - (b) 1 000 tonnes to importers who do not fulfil the condition set out in (a).

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 201, 31. 7. 1990, p. 1.

⁽³⁾ OJ No L 73, 21. 3. 1977, p. 28.

⁽⁴⁾ OJ No L 276, 6. 10. 1990, p. 29.

⁽⁵⁾ OJ No L 227, 4. 8. 1989, p. 34.

⁽⁶⁾ OJ No L 67, 15. 3. 1990, p. 31.

However, where the quantity specified in (a) or (b) is not applied for, or is only partially applied for, or is only partially applied for, the quantity available shall be allocated to the other group of importers who have submitted applications.

2. (a) No application for a licence, submitted by an importer referred to in paragraph 1 (a), may relate to a quantity in excess of 15 % of the quantity supplied to that importer in 1989 and 1990 ;
- (b) No application for a licence, submitted by an importer referred to in 1 (b), may relate to a quantity in excess of 25 % of the quantity shown under that point.

Article 3

Applications for import licences shall be submitted to the competent authorities of the Member States on 3 and 4 January 1991. The abovementioned authorities shall

forward these applications to the Commission at the latest by 7 January 1991 at 4 p.m., distinguishing between the quantities applied for under points (a) and (b) respectively of Article 2 (1).

Article 4

The Commission shall, by 8 January 1991 at the latest, fix and communicate by telex to the Member States the quantities for which licences are to be issued for each of the two categories of applications mentioned in Article 2 (1).

Article 5

The licences for which applications are forwarded pursuant to Article 3 shall be issued on 9 January 1991.

Article 6

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 21 December 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission
