

COMMISSION REGULATION (EC) No 2405/97

of 3 December 1997

amending Regulation (EC) No 2125/95 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 (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products⁽¹⁾, as amended by Regulation (EC) No 2199/97⁽²⁾, and in particular Article 15 (1) thereof,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽³⁾, as last amended by Regulation (EC) No 1595/97⁽⁴⁾, and in particular Article 8 thereof,

Whereas Article 4 of Commission Regulation (EC) No 2125/95⁽⁵⁾, as amended by Regulation (EC) No 2723/95⁽⁶⁾, provides for the quotas to be distributed between traditional importers and new importers and defines both categories of importers; whereas experience from several years of applying the scheme shows that the criteria for eligibility should be made more rigorous in order to restrict applications to undertakings which import and export processed fruit and vegetables; whereas there should also be a transitional period before this new provision is applied to traditional importers;

Whereas Annex I to Regulation (EC) No 2125/95 should be amended to adjust the quotas of preserved mushrooms allocated to Bulgaria, Poland and Romania in the light of the new quantities indicated in Annexes VI, II and V, respectively, to Regulation (EC) No 3066/95; whereas, however, these quotas must continue to be administered by calendar year and not by periods from 1 July to 30 June, in order to maintain traditional import schedules, taking into account the fact that for the other third countries the quantities allocated for 1997 have been used up

since 2 January 1997, as indicated in Commission Regulation (EC) No 8/97⁽⁷⁾;

Whereas products falling within CN code 0711 90 60, covering certain preserves of mushrooms not of the genus *Agaricus*, have been added to the Polish quota for preserved mushrooms of the genus *Agaricus* in Annex II to Regulation (EC) No 3066/95; whereas Regulation (EC) No 2125/95 should be amended so that these products can also be imported at the preferential tariff rate;

Whereas Decision No 1/97 of the Association Council, association between the European Communities and their Member States, of the one part, and the Republics of Bulgaria⁽⁸⁾, Poland⁽⁹⁾ and Romania⁽¹⁰⁾, of the other part, amends Protocol 4 to the Europe Agreements with Bulgaria⁽¹¹⁾, Poland⁽¹²⁾ and Romania⁽¹³⁾ with effect respectively from 1 January, 1 July and 31 January 1997; whereas the proof of origin of the imported products should be amended accordingly;

Whereas certain lapsed transitional provisions of Regulation (EC) No 2125/95 should be deleted;

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,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2125/95 is amended as follows:

1. 'Agaricus spp.' is deleted from the title;
2. Article 1 is replaced by the following:

Article 1

1. The tariff quotas for preserved mushrooms of the genus *Agaricus* falling within CN codes

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 29.

⁽²⁾ OJ L 303, 6. 11. 1997, p. 1.

⁽³⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽⁴⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽⁵⁾ OJ L 212, 12. 9. 1995, p. 16.

⁽⁶⁾ OJ L 283, 25. 11. 1995, p. 12.

⁽⁷⁾ OJ L 4, 8. 1. 1997, p. 3.

⁽⁸⁾ OJ L 134, 24. 5. 1997, p. 1.

⁽⁹⁾ OJ L 221, 11. 8. 1997, p. 1.

⁽¹⁰⁾ OJ L 54, 24. 2. 1997, p. 1.

⁽¹¹⁾ OJ L 358, 31. 12. 1994, p. 3.

⁽¹²⁾ OJ L 348, 31. 12. 1994, p. 2.

⁽¹³⁾ OJ L 357, 31. 12. 1994, p. 2.

0711 90 40, 2003 10 20 and 2003 10 30, and preserved mushrooms of other genera falling within CN code 0711 90 60 originating in Poland, shown in Annex I shall be opened subject to the conditions laid down in this Regulation.

2. The rate of duty applicable shall be 12 % *ad valorem* in the case of products falling within CN code 0711 90 40 (Serial No 09.4062) and 23 % in the case of products falling within CN codes 2003 10 20 and 2003 10 30 (Serial No 09.4063). However, a single rate of 8,4 % shall apply in the case of the above products originating in Bulgaria (Serial No 09.4725), Poland (Serial No 09.4821) or Romania (Serial No 09.4726), and products falling within CN code 0711 90 60 (Serial No 09.4821) originating in Poland.

3. For imports between 1 July and 31 December 1997, application of the rate of 8,4 % in the case of products falling within CN code 0711 90 60 originating in Poland shall not be subject to the condition referred to in Article 2 (1) below. However, in order for that rate to be applied an application must be submitted before 31 January 1998.;

3. Article 2 (2) is replaced by the following:

'2. In the case of countries other than Bulgaria, Poland and Romania, the quotas shall be allocated among the supplier countries in accordance with Annex I, except for a part thereof which shall constitute a reserve. The allocation may be adjusted on the basis of information regarding the quantities for which licences have been issued as at 30 June.;

4. Article 2 (3) is deleted;

5. Article 4 (1) is replaced by the following:

'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 Annex I, shall be distributed as follows:

(a) 85 % to traditional importers.

"Traditional importers" means importers who have obtained import licences pursuant to Regulation (EEC) No 3107/94 or this Regulation in each of the previous three calendar years and who have imported the products referred to in Article 1 (1) in at least two of the previous three calendar years. From 1 January 1999 importers must also furnish proof that they have imported and/or exported at least 100 tonnes of processed fruit and vegetable products, as referred to in Article 1 (2) of Council

Regulation (EC) No 2201/96 (*), during the year preceding their application.

(b) 15 % to new importers.

"New importers" means importers other than those referred to in (a) who are traders, natural or legal persons, individuals or groups that have imported 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 previous years. 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 and by proof of import and/or export. When importers in this category have obtained import licences pursuant to this Regulation in the previous calendar year, they must show proof of having put in free circulation, on their own account, at least 50 % of the quantity allocated to them.

(*) OJ L 297, 21. 11. 1996, p. 29.;

6. the following paragraph 4 is added to Article 4:

'4. Notwithstanding Article 9 of Regulation (EC) No 3719/88, the rights arising from import licences shall not be transferable.;

7. the following paragraph is added to Article 4:

'5. Box 20 of import licence applications shall contain one of the following, as applicable:

— "Licence applied for pursuant to Article 4 (1) (a) of Regulation (EC) No 2125/95",

or

— "Licence applied for pursuant to Article 4 (1) (b) of Regulation (EC) No 2125/95";

8. Article 5 (1) is replaced by the following:

'1. Licence applications submitted by traditional importers as 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 pursuant to Regulation (EC) No 3107/94 or this Regulation during the preceding three calendar years.;

9. Article 10 (3) is replaced by the following:

'3. In accordance with Protocol 4 to the Europe Agreements, products originating in Bulgaria, Poland and Romania shall be released for free circulation in the Community on presentation of an EUR.1 certificate issued by the authorities of those countries or a declaration given by the exporter or an invoice.;

10. Article 11 (2) is replaced by the following:

'2. Licence applications and import licences shall include the country of origin in box 8 and the word "yes" must be marked with a cross.'

11. Annex I is replaced by the Annex to this Regulation.

Article 2

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

It shall apply with effect from 1 July 1997 with the exception of Article 1 (5) to (8) and (10), which shall apply from 1 January 1998.

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

Done at Brussels, 3 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

ANNEX I

Allocation referred to in Article 2 (net drained weight)

(tonnes)

Supplier countries	From 1 July to 31 December 1997	From 1 January to 31 December 1998	From 1 January to 31 December 1999	From 1 January to 31 December 2000	From 1 January to 31 December of subsequent years
Bulgaria	770	1 575	1 645	1 715	1 750
Poland (*)	19 140	39 150	40 890	42 630	43 500
Romania	220	450	470	490	500
China	0	22 750	22 750	22 750	22 750
Others	0	3 290	3 290	3 290	3 290
Reserve	0	1 000	1 000	1 000	1 000
Total	20 130	68 215	70 045	71 875	72 790

(*) Including products falling within CN code 0711 90 60.