ARTICLE XIX - ACTION BY THE EUROPEAN COMMUNITIES

 Provisionally Preserved Cultivated Mushrooms

Further Measures

The following communication, dated 26 April 1991, has been received from the Permanent Delegation of the European Communities.

I have the honour to refer to the communication of the Commission of the European Communities dated 22 February 1991 and reproduced in document L/6821 of 5 March 1991, and to advise you, for the information of the contracting parties, that by Regulation (EEC) No. 809/91 of 27 March 1991, the Commission of the European Communities has taken further action under Article XIX in respect of imports of provisionally preserved cultivated mushrooms. Attached hereto is a copy of that Regulation with the product concerned, the tariff heading number and the maximum quantity which may be released for free circulation.

This measure, which follows up Regulation (EEC) No. 3758/90 of 21 December 1990, provides for the introduction of a maximum quantity of imports of 14,200 tonnes for the period 1 April to 31 July 1991. It also provides for the allocation of this quantity, by means of import licences, to importers.

The objectives of this measure are to continue to avoid imports at price levels lower than those for similar products obtained in the Community, causing serious marketing problems, and to avoid disturbances on the Community market resulting from applications for import licences which are speculative and excessive in relation to actual requirements.
COMMISSION REGULATION (EEC) No. 809/91
of 27 March 1991
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, as last amended by Regulation (EEC) No. 2201/90, in particular Article 16, paragraph 2 thereof,

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

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

Whereas the levels of prices applying in the main third country supplying the Community for the 1990/91 marketing year are lower than those for similar products obtained in the Community; whereas it is accordingly difficult to market the latter;

Whereas Commission Regulation (EEC) No. 521/77 lays down detailed rules for applying protective measures in the market in products processed from fruit and vegetables;

Whereas there is a danger that from 1 April 1991 applications for import licences may be excessive in relation to actual requirements and may be submitted for speculative reasons pending the entry into force of new regulations on the tariff classification of certain provisionally preserved mushrooms and the relevant adaptation of the import arrangements for the mushrooms in question and in view of the uncertain outcome of the discussions on the subject now under way with certain exporting countries; whereas this could create serious disturbances on the Community market, which could undermine the objectives of Article 39 of the Treaty; whereas protective measures must therefore be applied from 1 April 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 and pending the entry into force of the above-mentioned measures and the outcome of the discussions referred to above, the quantities of the product in question which may be released for free circulation for a transitional period of four months should be determined on the basis of the quantities imported during the same period in the two preceding years and at a rate of increase in line with the smooth development of trade;

Whereas, in order to ensure that the said quantity is properly used and to 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 derogate from the provisions of Commission Regulation (EEC) No. 2891/90 of 5 October 1990 on the issue of import licences for provisionally preserved cultivated mushrooms which may be released for free circulation in 1990; whereas that measure was reintroduced for the first quarter of 1991 by Commission Regulation (EEC) No. 3758/90 of 21 December 1990 on a protective measure applicable to imports of provisionally preserved cultivated mushrooms;

WHEREAS COMMISSION REGULATION (EEC) No. 809/91 of 27 March 1991

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 1 April to 31 July 1991, import licences shall be issued for 14,200 tonnes of provisionally preserved cultivated mushrooms provisionally preserved but unsuitable for consumption in that state and covered by CN code ex 0711 90 50.

1 OJ No. L 49, 27 February 1986, p.1
2 OJ No. L 201, 31 July 1990, p.1
3 OJ No. L 73, 21 March 1977, p.28
4 OJ No. L 276, 6 October 1990, p.29
5 OJ No. L 360, 22 December 1990, p.49
6 OJ No. L 227, 4 August 1989, p.34
7 OJ No. L 67, 15 March 1990, p.31
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, paragraph 1 shall be allocated as follows:

(a) 12,200 tonnes to importers who have submitted applications for import licences for the products in question in the course of 1989 and 1990;

(b) 2,000 tonnes to importers who do not fulfil the condition set out in (a).

However, where the quantities specified in (a) or (b) is not 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 as referred to in paragraph 1(a) may relate to a quantity in excess of 20 per cent of the quantity supplied to that importer in 1989 and 1990.

(b) No application for a licence submitted by an importer as referred to in paragraph 1(b) may relate to a quantity in excess of 15 per cent of the quantity shown therein.

Article 3

Applications for import licences shall be submitted to the competent authorities of the Member States on 2 and 3 April 1991. Those authorities shall forward the applications to the Commission by 4 p.m. on 4 April 1991 at the latest, distinguishing between the quantities applied for under points (a) and (b) of Article 2, paragraph 1.

Article 4

By 5 April 1991, at the latest, the Commission shall fix and communicate by telex to the Member States the quantities for which licences are to issued for each of the two categories of applications mentioned in Article 2, paragraph 1.

Article 5

The licences for which applications are forwarded pursuant to Article 3 shall be issued on 8 April 1991.

Article 6

This Regulation shall enter into force on 1 April 1991.

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

Done at Brussels, 27 March 1991

For the Commission

Ray MAC SHARRY

Member of the Commission