

COMMISSION REGULATION (EEC) No 3516/92
of 4 December 1992

amending Regulation (EEC) No 1707/90 laying down detailed rules for the application of Regulation (EEC) No 1796/81 on imports of preserved cultivated mushrooms from third countries

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 1569/92 ⁽²⁾, and in particular Articles 14 (3) and 15 (4) thereof,

Having regard to Council Regulation (EEC) No 1796/81 of 30 June 1981 on measures applicable to imports of mushrooms of the species *Agaricus spp.* falling within CN codes 0711 90 40, 2003 10 20 and 2003 10 30 ⁽³⁾, as amended by Regulation (EEC) No 1122/92 ⁽⁴⁾, and in particular Article 6 thereof,

Whereas, pursuant to Article 4 of Commission Regulation (EEC) No 1707/90 of 22 June 1990 ⁽⁵⁾, as last amended by Regulation (EEC) No 2895/92 ⁽⁶⁾, the release for free circulation of mushrooms originating in China, South Korea and Taiwan is subject to the provisions of Commission Regulation (EEC) No 3850/89 of 15 December 1989 laying down provisions for the implementation of Council Regulation (EEC) No 802/68 on the common definition of the concept of the origin of goods ⁽⁷⁾;

Whereas, in accordance with Article 3 (2) of Regulation (EEC) No 3850/89, the competent authorities in the Community are to accept as valid only originals of certificates of origin; whereas that provision is particularly harsh as regards imports into the Community of preserved cultivated mushrooms; whereas the consequence of losing the original of the certificate of origin is payment of an additional amount equivalent to approximately 100 % of the value of the product; whereas, in order to avoid such a consequence and in view of the fact that the requirement as to origin was laid down for the benefit of the third countries concerned, provision should be made for a derogation from Article 3 (2) of the above-mentioned Regulation to permit the competent Community authorities to accept a duplicate of the original in the event of loss of the original;

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 166, 20. 6. 1992, p. 5.

⁽³⁾ OJ No L 183, 4. 7. 1981, p. 1.

⁽⁴⁾ OJ No L 117, 1. 5. 1992, p. 98.

⁽⁵⁾ OJ No L 158, 23. 6. 1990, p. 34.

⁽⁶⁾ OJ No L 288, 3. 10. 1992, p. 20.

⁽⁷⁾ OJ No L 374, 22. 12. 1989, p. 8.

Whereas Regulation (EEC) No 3850/89 applies to the imports covered by Regulation (EEC) No 1707/90 since 1 January 1991; whereas the abovementioned derogation should also apply from that date;

Whereas, in accordance with Article 5 (4) of Regulation (EEC) No 1707/90, the overall quantity referred to in Article 3 of Regulation (EEC) No 1796/81 is to be allocated on the one hand to traditional importers and on the other hand to new importers; whereas the quantity still available at 15 October of the year in progress is allocated by the Commission to the group of importers for which quantities are no longer available; whereas this provision, which restricts access to the quantity still available at the end of the year to a single group of importers appears to damage the interests of the third countries benefiting under these import arrangements where supply exceeds demand; whereas, if access to the quantity available at 15 October of the year in progress is extended to all importers, the undesired obstacles to the full utilization of quantities still available for the year are eliminated; whereas the second subparagraph of Article 5 (4) of Regulation (EEC) No 1707/90 should accordingly be amended, care being taken, however, to state that for 1992, the date 15 October must be replaced by the date of entry into force of this Regulation;

Whereas the Management Committee for Products Processed from Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1707/90 is hereby amended as follows:

1. The following second subparagraph is added to Article 4 (1):

‘However, by way of derogation from Article 3 (2) of Regulation (EEC) No 3850/89, the competent authorities may accept as valid duplicates of originals of certificates of origin in the event of loss of the original.’

2. The second subparagraph of Article 5 (4) is replaced by the following:

'However, where the quantities laid down in (a) or (b) are not applied for or are applied for only in part, the balance available at 15 October of the year in progress shall be allocated to two groups of importers in accordance with detailed rules laid down by the Commission as regards the submission of applications and the issue of import licences. For 1992, this allocation shall cover the quantity still available on 8 December 1992.'

Article 2

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

Article 1 (1) shall apply from 1 January 1991.

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

Done at Brussels, 4 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission
