# Commission Regulation (EC) No 1979/2006 of 22 December 2006 opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries

## COMMISSION REGULATION (EC) No 1979/2006

## of 22 December 2006

## opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania, and in particular its Article 4(3),

Having regard to the Act of Accession of Bulgaria and Romania, and in particular its Article 41,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products[(1)], and in particular Article 15(1) thereof,

Whereas:

(1) Following the Agreement on Agriculture[(2)] concluded during the Uruguay Round of multilateral trade negotiations, the Community undertook to open from 1 July 1995, under certain conditions, Community tariff quotas for certain preserved mushrooms of the genus *Agaricus* spp.

(2) The conditions for the administration of those quotas have been established by Commission Regulation (EC) No 1864/2004 of 26 October 2004 opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries[(3)]. For the sake of clarity, that Regulation should be repealed and replaced by a new Regulation as from 1 January 2007.

(3) The Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994, approved by Council Decision 2006/398/EC[(4)], provides for an increase by 5 200 tonnes of the tariff quota of preserved mushrooms of the genus *Agaricus* falling within CN codes 0711 51 00, 2003 10 20 and 2003 10 30 originating in China.

(4) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences[(5)] applies to import licences for import tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications for import licences, the status of applicants and the issue of licences. That Regulation limits the period of validity of licences to the last

day of the import tariff quota period. The provisions of Regulation (EC) No 1301/2006 should apply to import licences issued pursuant to this Regulation, without prejudice to additional conditions and derogations concerning the applicants laid down in this Regulation.

(5) Detailed arrangements should be laid down to ensure that the quantities in excess of the tariff quotas are subjected to the levying of the full duty provided for in the Common Customs Tariff. Licences should therefore be issued at the end of a period in which the quantities are checked and the necessary notifications are made by the Member States. These provisions are either supplementary to or derogate from the provisions of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products[(6)].

(6) There should continue to be an adequate supply of the products concerned on the Community market at stable prices whilst avoiding unnecessary market disruptions in the form of severe price fluctuations and negative effects on the Community producers. To this end, competition amongst importers should be encouraged to an increasing degree and administrative burdens on importers reduced.

(7) In the interest of existing importers, who normally import substantial quantities of the products concerned, and also in the interest of new importers who join the market and should also have a fair opportunity to apply for licences for a quantity of preserved mushrooms under tariff quotas, a distinction should be drawn between traditional importers and new importers. A clear definition of these two categories of importers should be provided, and certain criteria relating to the status of the applicants and the use of the licences allocated should be laid down.

(8) It is appropriate to establish an allocation between the two categories of importers on the basis of the quantities effectively imported rather than on the basis of the licences issued.

(9) In the interest of existing importers, those quantities of preserved mushrooms that fall under the tariff quotas managed by this Regulation and could not be imported during an import tariff quota period due to *force majeure* should also be taken into account in the calculation of the reference quantities, in order to prevent the subsequent reduction of their reference quantity.

(10) Licence applications to import preserved mushrooms from third countries presented by each category of importers should be subject to certain restrictions. Such restrictions are necessary to ensure not only that competition between importers is preserved, but also that each importer with a genuine commercial activity in the fruit and vegetable market is given the opportunity to defend its legitimate trading positions vis-à-vis other importers and that no single importer is able to control the market.

(11) In order to improve and simplify the administration of tariff quotas for preserved mushrooms, clear provisions should be made as regards the dates and procedures for lodging the licence applications and the issuing of the licences by the competent authorities of the Member States.

(12) Measures are also needed to keep speculative applications for licences which may result in the tariff quotas not being fully utilised to a minimum. Because of the nature and the value of the product concerned, a security should be lodged in respect of each tonne (drained net weight) of the product concerned for which an application for a licence to import is made. The security should be at a level sufficiently high to discourage speculative applications, but not so high as to discourage those engaged in genuine commercial activity in relation to processed fruit and vegetable products. The most appropriate objective criteria for setting the level of the security is a limit of 2 % of the average additional duty applicable to imports into the Community of preserved mushrooms of the genus *Agaricus* spp. currently falling within CN codes 0711 51 00, 2003 10 20 and 2003 10 30.

(13) Bulgaria and Romania are due to join the European Union on 1 January 2007. Consequently, the GATT quota currently allocated for them should be reallocated to other suppliers.

(14) Transitional measures should be laid down in order to allow importers from Bulgaria and Romania to benefit from this Regulation.

(15) Arrangements should be laid down for the years 2007 and 2008 to ensure that a distinction is made between, on the one hand, traditional importers and new importers within the Community as constituted at 31 December 2006 and, on the other hand, traditional importers and new importers in Bulgaria and Romania.

(16) 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*

**Opening of tariff quotas and applicable duties**

1 Tariff quotas are hereby opened in relation to imports into the Community of preserved mushrooms of the genus *Agaricus* classifiable within CN codes 0711 51 00, 2003 10 20 and 2003 10 30 (hereinafter referred to as ‘preserved mushrooms’), subject to the conditions laid down in this Regulation. The volume of each of the tariff quotas, their order number and the period for which they apply, are specified in Annex I.

2 The rate of duty applicable shall be 12 % *ad valorem* in the case of products falling within CN code 0711 51 00 and 23 % in the case of products falling within CN codes 2003 10 20 and 2003 10 30.

*Article 2*

**Application of Regulations (EC) No 1291/2000 and (EC) No 1301/2006**

Regulations (EC) No 1291/2000 and (EC) No 1301/2006 shall apply, save as otherwise provided for in this Regulation.

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 1979/2006. (See end of Document for details)*

*Article 3*

**Definitions**

1 For the purposes of this Regulation, 'competent authorities' shall mean the body or bodies designated by the Member State for the implementation of this Regulation.

2 For the purposes of this Regulation, 'reference quantity' shall mean the maximum quantity (drained net weight) of preserved mushrooms imported per calendar year by a traditional importer during one of the last three calendar years.

Imports of preserved mushrooms originating in Member States of the Community as constituted at 31 December 2006 or in Bulgaria and Romania shall not be taken into account in the calculation of the reference quantity.

Quantities of preserved mushrooms that fall under the tariff quotas referred to in Article 1(1) and could not be imported during an import tariff quota period due to *force majeure* shall be taken into account in the calculation of the reference quantity.

*Article 4*

**Categories of importers**

1 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, 'traditional importers' shall mean importers who can prove that:

a they have imported into the Community preserved mushrooms in at least two of the previous three calendar years;

b they have imported into the Community at least 100 tonnes of processed fruit and vegetable products, as referred to in Article 1(2) of Regulation (EC) No 2201/96, during the year preceding their application.

2 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, 'new importers' shall mean importers other than those referred to in paragraph 1 of this Article, that have imported into the Community 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 calendar years.

3 Traditional and new importers shall submit the proof that the criteria laid down in paragraphs 1 or 2 are met, at the time of their first application for a given import tariff quota period to the competent authorities of the Member State in which they are established and in which they are registered for VAT purposes.

Proof of trade with third countries shall be furnished exclusively by means of the customs documents of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee.

*Article 5*

**Licence applications and licences**

1 Import licences (hereinafter referred to as 'licences') shall be valid from their effective date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000.

2 The amount of the security shall be EUR 40 per tonne (drained net weight).

3 The country of origin shall be entered in Box 8 of the licence application and the licence, and the word 'yes' shall be marked with a cross. The licence shall be valid only for imports originating in the country indicated.

4 By way of derogation from Article 9(1) of Regulation (EC) No 1291/2000, the rights arising from import licences shall not be transferable.

*Article 6*

**Allocation of total quantities among traditional and new importers**

1 The total quantity allocated to China and other third countries, pursuant to Annex I, shall be distributed as follows:

a 95 % to traditional importers;

b 5 % to new importers.

2 If the quantity allocated to China and other third countries is not fully exhausted by one category of importers, the remainder shall be allocated to the other category.

3 Box 20 of licence applications shall indicate 'traditional importer' or 'new importer' as appropriate.

*Article 7*

**Restrictions applicable to applications**

1 The total amount (drained net weight) of the licence applications to import into the Community preserved mushrooms submitted by a traditional importer may not relate to a quantity exceeding 150 % of the reference quantity.

2 The total amount (drained net weight) of the licence applications to import into the Community preserved mushrooms submitted by a new importer for a certain origin may not exceed 1 % of the total quantity referred to in Annex I for that origin.

*Article 8*

**Lodging of licence applications by importers**

1 Importers shall submit their applications for licences during the first five working days of January.

2 When new importers have obtained licences pursuant to Regulation (EC) No 1864/2004 or this Regulation in the previous calendar year, they shall also produce proof that at least 50 % of the quantity allocated to them has actually been released into free circulation in the Community.