Commission Regulation (EC) No 1892/2004 of 29 October 2004 on transitional measures for 2005 for imports of bananas into the Community by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

COMMISSION REGULATION (EC) No 1892/2004

of 29 October 2004

on transitional measures for 2005 for imports of bananas into the Community by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas[(1)],

Whereas:

(1) Commission Regulation (EC) No 896/2001[(2)] laid down detailed rules for applying Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community.

(2) Commission Regulation (EC) No 838/2004 of 28 April 2004[(3)] adopted the transitional measures needed to facilitate the transition from the arrangements in force in the new Member States prior to accession to the import arrangements in force under the common organisation of the markets in the banana sector for the period from 1 May to 31 December 2004. In order to ensure market supply, in particular in the new Member States, that Regulation fixed an additional quantity on a transitional basis over and above the quotas opened for imports of products originating in all third countries by Article 18(1) of Regulation (EEC) No 404/93 on the same terms as regards tariffs, for the period from 1 May to 31 December 2004.

(3) To this end, the necessary transitional measures should also be adopted for 2005 in order to facilitate the transition towards application of the import arrangements in force under the common organisation of the market in the new Member States, and in preparation for the transition to a tariff-only arrangement applicable to imports, no later than 1 January 2006, in accordance with Article 16 of Regulation (EEC) No 404/93.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1892/2004. (See end of Document for details)*

(4) In order to ensure market supply, in particular in the new Member States, an additional quantity should be fixed over and above the quotas opened for imports of products originating in all third countries by Article 18(1) of Regulation (EEC) No 404/93 on the same terms as regards tariffs. Such fixing must be transitional and may not prejudge the outcome of the negotiations under way in the context of the World Trade Organisation (WTO) as a result of the accession of the new members. In addition, it should not preclude the possibility of an increase if need be to meet requirements justified by demand.

(5) This additional quantity must be managed using the mechanisms and instruments put in place by Regulation (EC) No 896/2001 to manage the existing tariff quotas. However, because these arrangements are transitional, this additional quantity must be managed separately from the tariff quotas.

(6) Under the mechanisms introduced by Regulation (EC) No 896/2001, the additional quantity must be distributed between the two categories of operators defined in Article 2 of that Regulation and rules must be adopted for determining a specific reference quantity for each traditional operator and a specific allocation for each non-traditional operator. It should be specified that the distribution referred to above and the determination of the reference quantities and allocations concern operators who have supplied the markets of the new Member States during the years prior to accession.

(7) For the purposes of determining the reference quantities of traditional operators, the three-year reference period 2000, 2001 and 2002 laid down in Article 6(1) of Regulation (EC) No 838/2004 should be retained, as should the average of primary imports carried out during that period by each traditional operator registered in accordance with the transitional measures adopted in 2004, following checks carried out by the competent authorities. The provisions to be adopted must, however, allow applications submitted by traditional operators who were not registered in 2004 to be taken into account, provided that these applications meet the conditions laid down for the registration of these operators in Commission Regulations (EC) No 414/2004[(4)] and (EC) No 838/2004, in particular as regards the definition of primary imports and the proof that such operations have supplied the markets of the new Member States during the period concerned.

(8) As regards new non-traditional operators, provision should be made for their registration on the basis of their having been engaged in the commercial activity of importing bananas, in one of the years 2002, 2003 and 2004, in accordance with Articles 6, 7 and 8 of Regulation (EC) No 896/2001.

(9) With a view to managing this available quantity, adjustment coefficients to be applied to the quantities notified by the Member States should be fixed.

(10) In order to ensure satisfactory market supply, and in particular to ensure a continual flow of imports into the new Member States, the transitional measures should include the issue of licences with a view to release for free circulation in a new Member State. Accordingly, securities lodged should be released in proportion to the quantities released for free circulation in a new Member State.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

(a) 'Community of Fifteen' means the Community as constituted on 30 April 2004;

(b) 'new Member States' means the Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia;

(c) 'the enlarged Community' means the Community as constituted on 1 May 2004;

(d) 'primary import' means the economic operation defined in the first subparagraph of Article 3(1) of Regulation (EC) No 896/2001 with a view to sale in one or more new Member States;

(e) 'minimum quantity' means the minimum quantity defined in the third subparagraph of Article 3(1) of Regulation (EC) No 896/2001 established on the basis of all primary imports carried out with a view to supplying the markets of the new Member States;

(f) 'competent authorities' means the competent authorities listed in the Annex to Regulation (EC) No 896/2001.

Article 2

Purpose

This Regulation adopts, for 2005, the transitional measures needed to facilitate the transition from the arrangements in force in the new Member States prior to their accession to the Community of Fifteen to the tariff quota import arrangements introduced by Regulations (EEC) No 404/93 and (EC) No 896/2001.

Regulation (EC) No 896/2001 shall apply subject to this Regulation.

Article 3

Additional quantity

1 A quantity of 460 000 tonnes, net weight, shall be available for imports of bananas into the new Member States in 2005.

This quantity shall be available for imports of products from the origins referred to in Article 18(1) of Regulation (EEC) No 404/93.

Imports covered by that quantity shall be subject to the duties fixed in Article 18(2) of the above Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1892/2004. (See end of Document for details)*

2 The quantity fixed in paragraph 1 may be increased if a growth in demand is observed in the new Member States.

Article 4

Access to the additional quantity

1 Access to the additional quantity fixed in Article 3 shall be open to traditional operators and non-traditional operators established in the enlarged Community who meet the requirements of Article 5 or Article 6, as the case may be.

2 Quantities of 381 800 tonnes shall be available to traditional operators and 78 200 tonnes to non-traditional operators.

Article 5

Specific reference quantity for traditional operators for 2005

1 Without prejudice to paragraph 4, for 2005 the specific reference quantity of each traditional operator referred to in Article 6(1) of Regulation (EC) No 838/2004 and registered in 2004 in accordance with that Regulation, shall be determined, on written application submitted by the operator no later than 12 November 2004, on the basis of the average of primary imports of bananas carried out in the three-year period 2000-2002 established on the basis of the supporting documents provided for in Article 6(2) and the first subparagraph of Article 6(4) of Regulation (EC) No 414/2004.

2 Non-registered operators in accordance with Regulation (EC) No 838/2004 meeting the requirements laid down in Article 6(1) thereof shall send the competent authorities of the Member State of their choice a written application for allocation of a specific reference quantity for 2005. This application, submitted no later than 12 November 2004, shall indicate:

a for 2000, 2001 and 2002, the quantities of primary imports of bananas carried out and followed by release for free circulation in the new Member States; and

b the respective quantities released for free circulation in the various new Member States for each of the years concerned.

To be accepted, this application shall be accompanied by the supporting documents referred to in Article 6(2) and (4), first subparagraph, of Regulation (EC) No 414/2004.

The competent authorities shall give a specific reference quantity based on the average of primary imports carried out during the above period.

3 The Member States shall notify the Commission no later than 26 November 2004 of the sum of the specific reference quantities for traditional operators established in accordance with paragraphs 1 and 2.

4 In the light of the notifications under paragraph 3 and the available quantity fixed in Article 4(2), the Commission shall, if necessary, set an adjustment coefficient to be applied to the specific reference quantity of each traditional operator.

5 The competent authorities shall inform each operator of its reference quantity, as adjusted where necessary by the adjustment coefficient referred to in paragraph 4, no later than 10 December 2004.