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COMMISSION REGULATION (EC) No 414/2004

of 5 March 2004

adopting specific measures with a view to adapting the arrangements for administering tariff quotas on banana imports as a result of the accession of new Member States on 1 May 2004

(OJ L 68, 6.3.2004, p. 6)

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COMMISSION REGULATION (EC) No 414/2004

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adopting specific measures with a view to adapting the arrangements for administering tariff quotas on banana imports as a result of the accession of new Member States on 1 May 2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas [1], and in particular Article 20 thereof,

Whereas:

(1) Commission Regulation (EC) No 896/2001 [2] lays down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community. Titles I and II of that Regulation define the categories of traditional and non-traditional operators who may supply the Community under the tariff quotas opened each year.

(2) In view of the accession to the Community of 10 new Member States on 1 May 2004, it is necessary to identify the operators established in the Community as constituted on 30 April 2004, whether or not already registered, who have supplied the markets of the countries acceding on 1 May 2004 and who meet the conditions laid down in Articles 3 and 4 of Regulation (EC) No 896/2001, in the case of traditional operators, and Articles 6 to 12 of that Regulation, in the case of non-traditional operators.

(3) In order to draw up a list of operators who qualify to participate in the tariff quota arrangements for banana imports in accordance with the criteria laid down by Community law, reference periods should be adopted which are representative of developments in trade. To that end, the three-year period 2000 to 2002, for which import statistics are available, should be used for traditional operators. For non-traditional operators, 2002 and 2003, which immediately precede the year of registration, may be used for the purposes of Article 6 of Regulation (EC) No 896/2001.

(4) In the case of traditional importers, it should be made clear that only primary imports within the meaning of Article 3(1) of Regulation (EC) No 896/2001 which have actually been used to supply accession countries and which have resulted in quantities of bananas being released for free circulation in an accession country may be taken into account for determining a specific additional reference quantity. Such operators should therefore be required to produce the customs documents attesting to release for free circulation in the accession countries.

(5) In the case of non-traditional operators, in order to avoid excessive applications for allocations bearing no relation to their actual capacity, a maximum limit should be set for each application for an allocation, expressed as a percentage of the quantities actually released for free circulation during one of the years preceding registration and for which the operator must produce the appropriate supporting documents.

(6) In order to facilitate the scrutiny of operators' applications and harmonise how they are processed, the main supporting documents which may be produced as evidence that the requirements have been met for admission to each of the two categories of operators should be specified.

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[1] OJ L 47, 25.2.1993, p. 1. Regulation as last amended by Regulation (EC) No 2587/2001 (OJ L 345, 29.12.2001, p. 13).

[2] OJ L 126, 8.5.2001, p. 6. Regulation as last amended by Regulation (EC) No 1439/2003 (OJ L 204, 13.8.2003, p. 30).

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(7) The necessary provisions should also be laid down to ensure adequate communication between the Member States and the Commission and to organise the additional verifications and checks needed to detect and prevent false claims, prevent irregularities and ensure the smooth functioning of the arrangements for administering tariff quotas for banana imports.

(8) This Regulation will apply without prejudice to any rules which the Commission might subsequently adopt with a view to full application of the arrangements introduced by Regulations (EEC) No 404/93 and (EC) No 896/2001 in the enlarged Community.

(9) The Management Committee for Bananas has not issued an opinion by the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

(a) 'Community of 15' means the Community as constituted on 30 April 2004;

(b) 'new Member States' means the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, 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;

(e) 'minimum quantity' means the minimum quantity defined in the third subparagraph of Article 3(1) of Regulation (EC) No 896/2001;

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

Article 2

This Regulation determines the operators established in the Community as constituted on 30 April 2004 who may be given access to participate in the tariff quota arrangements for banana imports on the basis of their activities in supplying the markets of the new Member States prior to their accession.

Article 3

Traditional operators

1. Traditional operators established in the Community of 15 during the years referred to below and meeting the requirements laid down in Article 3(1) of Regulation (EC) No 896/2001 who have carried out a minimum quantity of primary imports of bananas with a view to their sale in one or more of the new Member States during either 2000, 2001 or 2002 may submit a written application for allocation of a specific reference quantity with a view to the issue of import licences from 1 May 2004 under the tariff quota arrangements for banana imports.

Compliance with the minimum quantity requirement shall be established on the basis of all primary imports carried out with a view to supplying the markets of the new Member States.

2. For the purposes of paragraph 1:

— traditional operators registered in a Member State shall submit a written application for allocation of a specific reference quantity to the competent authorities of that Member State;

— operators not registered in a Member State shall submit a written application for registration and allocation of a specific reference