COMMISSION REGULATION (EC) No 1439/2003

of 12 August 2003

amending Regulation (EC) No 896/2001 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community

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], as last amended by Regulation (EC) No 2587/2001 [2], and in particular Article 20 thereof,

Whereas:

(1) Commission Regulation (EC) No 896/2001 [3], as last amended by Regulation (EC) No 1303/2003 [4], lays down detailed rules for applying Regulation (EEC) No 404/93, applicable from 1 July 2001, as regards the management of the import tariff quotas provided for in Article 18(1) of that Regulation.

(2) Article 4 of Regulation (EC) No 896/2001 lays down, in particular, the method for establishing the reference quantity for each traditional operator A/B and C on the basis of the average of primary imports carried out by them during 1994, 1995 and 1996 taken into account for the purposes of administering the tariff quota opened for 1998.

(3) To update the data and simplify administration of the regime, for the tariff quotas A/B and C opened for 2004 and, subsequently, for 2005, the reference quantity for traditional operators should be calculated on the basis of the extent to which they used the import licences issued to them under Article 4(1) and (2) of Regulation (EC) No 896/2001 and/or transferred to them under Article 20 of that Regulation in the course of 2002 and 2003, respectively.

(4) The competent national authorities are responsible for making the documentary checks required to verify that import licences are used by their holder, or by the transferee where licences are transferred under Article 20 of Regulation (EC) No 896/2001 and the relevant 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 [5], as last amended by Regulation (EC) No 325/2003 [6].

(5) Account should be taken of the special situation of traditional operators to whom an exceptionally low reference quantity would be allocated in 2004 and/or 2005 as a result of hardship affecting their activities in the course of the reference year, and provision made for a procedure for taking appropriate measures if they prove necessary, within the limits of the quantities under tariff quotas A/B and C.

(6) Regulation (EC) No 896/2001 should be amended accordingly.

(7) The provisions of the import regime do not give rise to acquired rights nor may they be invoked as legitimate expectations by operators.

(8) 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

Regulation (EC) No 896/2001 is hereby amended as follows:

1. Article 3(1) is replaced by the following:

'1. "traditional operators" means economic agents, whether natural persons or entities having legal personality, individual agents or groups, established in the Community, who, for their own account, purchased a minimum quantity of bananas originating in third countries from the producers or, where applicable, produced, consigned and sold such products in the Community during one of the years of the reference period used up to 31 December 2003.

Operations as defined in the previous subparagraph shall hereinafter be called "primary imports".

The minimum quantity referred to in the first subparagraph shall be 250 tonnes, or 20 tonnes where marketing or import concerns only bananas with a length of 10 centimetres or less.'

[1] OJ L 47, 25.2.1993, p. 1.
[2] OJ L 345, 29.12.2001, p. 13.
[3] OJ L 126, 8.5.2001, p. 6.
[4] OJ L 185, 24.7.2003, p. 5.
[5] OJ L 152, 24.6.2000, p. 1.
[6] OJ L 47, 21.2.2003, p. 21.