

**COMMISSION REGULATION (EEC) No 3797/90**  
**of 21 December 1990**

**on protective measures applicable to imports of certain semi-processed red fruits originating in Poland and Yugoslavia**

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 2201/90<sup>(2)</sup>, and in particular Article 18 (2) thereof.

Whereas Council Regulation (EEC) No 521/77 lays down detailed rules for applying protective measures in the market in products processed from fruit and vegetables<sup>(3)</sup>;

Whereas the marketing of frozen strawberries and raspberries and provisionally preserved strawberries and raspberries is characterized by competition from third countries at prices significantly below the prices at which Community products can be marketed; whereas imports in 1990 were significantly higher than the average for the last three years;

Whereas Commission Regulation (EEC) No 2198/90 of 27 July 1990 on protective measures applicable to imports of frozen strawberries, frozen raspberries, provisionally preserved strawberries and provisionally preserved raspberries originating in Poland<sup>(4)</sup> and Commission Regulation (EEC) No 2199/90 of 27 July 1990 on protective measures applicable to imports of frozen raspberries, and provisionally preserved raspberries originating in Yugoslavia<sup>(5)</sup> laid down a minimum import price for the products in question; whereas these prices apply until 31 December 1990;

Whereas supplies of the products in question in Poland and Yugoslavia are currently considerable; whereas from 1 January 1991, in the absence of an agreement with the exporting countries to comply with a free-at-frontier price for the remaining part of the current marketing year, large quantities would be imported into the Community at very low prices; whereas in these circumstances the Community market would be exposed to serious disturbances

which might endanger the objectives set out in Article 39 of the Treaty; whereas it is therefore necessary to maintain the requirement of a minimum import price during a certain period and to apply countervailing charges on products which do not respect that price;

Whereas the value of a product may vary considerably according to the different qualities of product marketed; whereas each quality may have its own price which differs considerably from the price of another quality; whereas, therefore, a minimum import price should be set taking account of these differences according to qualities and their corresponding prices; whereas, therefore, differentiated prices should be fixed for each quality class within a CN code;

Whereas the different quality classes for each product concerned should be defined, taking account of relevant commercial practice;

Whereas the level of the minimum prices should be set taking account of the prices fixed by CN code in the protective measure in force until 31 December 1990;

Whereas the conversion rate to be used for converting the minimum import price into national currencies should be set explicitly; whereas for this purpose the rate to be used for conversion into national currencies should be that laid down in Commission Regulation (EEC) No 2053/89<sup>(6)</sup> and No 2054/89<sup>(7)</sup> laying down detailed rules for the application of the minimum import price system for certain processed cherries and for dried grapes, as last amended by Regulation (EEC) No 3390/89<sup>(8)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. On import into the Community of:
- frozen strawberries and raspberries originating in Poland, and
  - frozen raspberries and provisionally preserved raspberries originating in Yugoslavia,

<sup>(1)</sup> OJ No L 49, 27. 2. 1986, p. 1.

<sup>(2)</sup> OJ No L 201, 31. 7. 1990, p. 1.

<sup>(3)</sup> OJ No L 73, 21. 3. 1977, p. 28.

<sup>(4)</sup> OJ No L 198, 28. 7. 1990, p. 53.

<sup>(5)</sup> OJ No L 198, 28. 7. 1990, p. 55.

<sup>(6)</sup> OJ No L 195, 11. 7. 1989, p. 11.

<sup>(7)</sup> OJ No L 195, 11. 7. 1989, p. 14.

<sup>(8)</sup> OJ No L 326, 11. 11. 1989, p. 27.

the minimum import price shall be as set out below :

<i>(ECU/100 kg net)</i>		
CN code (a)	Description of goods	Minimum import price
0811 10 90	Frozen strawberries without added sugar	
ex 0811 10 90	Whole fruit	92
ex 0811 10 90	Other	65
0811 20 31	Frozen raspberries without added sugar	
ex 0811 20 31	Whole fruit	110
ex 0811 20 31	Other	58
0812 20 00	Provisionally preserved strawber- ries	45
0812 90 60	Provisionally preserved raspber- ries	50

(a) see Taric codes in Annex.

2. Where the import price is less than the minimum price set out in paragraph 1, a countervailing charge equivalent to the difference between those two prices shall be levied.

3. The minimum import price shall be converted into the national currency of the Member State of release for free circulation using the conversion rate referred to in Article 3a of Commission Regulation (EEC) No 3152/85<sup>(1)</sup> and applying on the date of acceptance of the declaration of release for free circulation.

4. The price set for the products indicated above as 'other' shall apply to products other than whole IQF frozen fruit of Class I or 'Extra' Class (strawberries) or 'Extra' Class (raspberries), certified by a Polish or Yugoslav quality control body and accompanied on release for free circulation by a certificate indicating the quality class.

Products not satisfying the abovementioned conditions shall be released for free circulation provided they comply with the minimum price for the 'whole fruit' category.

#### Article 2

1. The minimum import shall be respected when the import price expressed in the currency of the Member State of release for free circulation is not less than the minimum import price applicable on the day on which the declaration of release for free circulation is accepted.

2. The following factors shall constitute the import price :

- (a) the fob price in the country of origin ;
- (b) transport and insurance costs to the point of entry into the customs territory of the Community.

3. For the purposes of paragraph 2, 'fob price' means the price paid or to be paid for the quantity of products contained in a consignment including the cost of placing the consignment on board a means of transport at the place of shipment in the country of origin and other costs incurred in that country. The fob price shall not include the costs of any services to be borne by the seller from the time that the products are placed on board the means of transport.

4. Payment of the price to the seller shall be effected not later than three months after the day on which the entry for free circulation is accepted by the customs authorities.

5. Where the factors referred to in paragraph 2 are expressed in a currency other than that of the Member State of release for free circulation, the provisions on the valuation of goods for customs purposes shall be applied when converting such currency into the currency of the abovementioned Member State.

#### Article 3

1. The customs authorities shall, in respect of each consignment, at the time of completion of the customs import formalities for free circulation, compare the import price with the minimum import price.

2. The import price shall be declared on the declaration of release for free circulation and the declaration shall be accompanied by all the documents required to verify the price.

3. The competent authorities shall :

- (a) if the invoice presented to the customs authorities has not been drawn up by the exporter in the country in which the products originated ;  
or
- (b) if the authorities are not satisfied that the price declared in the declaration reflects the actual import price ;  
or
- (c) if payment has not been effected within the time limit provided for in Article 2 (4) ;

take the necessary measures to determine the import price, in particular by reference to the importer's resale price.

#### Article 4

The importer shall retain evidence of payment to the seller. That evidence and all commercial documents, in particular invoices, contracts and correspondence concerning the purchase and sale of the products shall be kept available for examination by the customs authorities for a period of three years.

#### Article 5

This Regulation shall enter into force on 1 January 1991.

It shall apply until 31 March 1991.

<sup>(1)</sup> OJ No L 310, 21. 11. 1985, p. 1.

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

Done at Brussels, 21 December 1990.

*For the Commission*  
Ray MAC SHARRY  
*Member of the Commission*

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*ANNEX*

**Taric codes**

<i>CN codes</i>	<i>Taric codes</i>
ex 0811 10 90	* 10
ex 0811 10 90	* 90
ex 0811 20 31	* 10
ex 0811 20 31	* 90

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