II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 9 March 1973

amending the Commission Decision of 12 May 1971 empowering Member States to take interim protective measures with regard to the importation of certain products originating in third countries and put into free circulation in other Member States

(73/55/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 115 thereof ;

Whereas the Commission Decision of 12 May 1971 [1] empowered the Member States to take interim protective measures with regard to the importation of certain products originating in third countries and put into free circulation in other Member States ;

Whereas the second subparagraph of Article 1 (1) of that Decision provides that where a quota is not reserved for imports coming direct from the third country of origin, Member States may not make the importation of products covered by the quota conditional upon the prior granting of an import authorization until, taking account both of direct and of indirect imports already effected or authorized, 80 % of the quota has been utilized ;

Whereas it has been found that, for the purpose of determining how much of any autonomous quota has been utilized so that where necessary a request may be made for authorization to apply protective measures, the use of import authorizations is necessary ;

Whereas it is, therefore, desirable, notwithstanding the principle that in intra-Community trade no Member State may require licenses, even where these are issued automatically or any other similar formality, that Member States be authorized to use for the purpose aforesaid the import authorization provided for in the Decision of 12 May 1971 ;

Whereas the Decision in question should accordingly be amended to that effect ;

HAS ADOPTED THIS DECISION :

Article 1

1. The second subparagraph of Article 1 (1) of the Decision of 12 May 1971 is hereby repealed.

2. Article 2 of the said Decision is amended to read as follows :

'1. If a Member State finds that a proposed importation is likely to cause such deflection of trade as could obstruct execution of any measure of commercial policy taken in conformity with the Treaty, it may withhold the import authorization applied for provided that, within the time limit specified in Article 1 (3), it lays before the Commission a request for implementation of the first paragraph of Article 115 of the Treaty.

The Member State shall forthwith inform the applicant for the import authorization of its action.

[1] OJ No L 121, 3. 6. 1971, p. 26.

2. However, where any quota is not reserved for imports coming direct from the third country of origin under a trade agreement with that country, the Member State may not avail itself of the provisions of the preceding paragraph until, taking account both of direct and of indirect imports already carried out or authorized, the amount of the quota is about to be exceeded.

3. The Member State concerned shall take a decision whether or not to issue an import authorization as soon as it receives notification of the decision of the Commission concerning the implementation of the first paragraph of Article 115 of the Treaty, and in any event not later than 12 working days following submission of the application for an import authorization.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 March 1973.

For the Commission

The President

François-Xavier ORTOLI