II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 July 1986

authorizing Spain to adopt protective measures in respect of urea imports

(Only the Spanish text is authentic)

(86/511/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 379 thereof,

Whereas by letter of 8 July 1986 the Spanish Government applied to the Commission for authroization under Article 379 of the Act of Accession to introduce protective measures in the urea sector;

Whereas in their application the Spanish authorities provided the Commission with facts from which it emerges that the Spanish urea industry is experiencing serious difficulties which are liable to persist;

Whereas there was a big increase in imports of fertilizer into Spain in January 1986; whereas this increase was particularly marked in the urea sector; whereas imports of urea from other Member States between January and May 1986 amounted to some 63 000 tonnes; whereas during the corresponding period of 1985 urea imports amounted to some 500 tonnes; whereas imports from non-Community countries during the first five months of 1986 amounted to some 19 000 tonnes; whereas during the corresponding period of 1985 imports from this source were insignificant;

Whereas applications for foreign currency to import some 650 000 tonnes of urea into Spain between January 1986 and June 1986 indicate the increase in imports is likely to be even more spectacular;

Whereas in the last five years domestic consumption of urea has averaged some 525 000 tonnes a year; whereas the home market is the Spanish industry's main outlet and its share of that market has decreased significantly from some 95 % in 1985 to less than 60 % in the first five months of 1986; whereas, consequently, the Spanish industry has been forced to reduce production; whereas the production forecast for 1986 is a total of 400 000 tonnes whilst the equivalent for 1985 was some 570 000 tonnes; whereas this drop in production has accelerated the fall in the profitability of firms in the urea sector;

Whereas Spanish undertakings face serious structural deficiences particularly as regards their plant and are restructuring and therefore highly vulnerable; whereas higher imports are likely to jeopardize the restructuring process now in hard; whereas the volume of imports from other Member States is one of the chief causes of the economic difficulties affecting the sector concerned; whereas without immediate intervention these difficulties are likely to worsen;

Whereas, in addition, the sector's main production units are in particularly disadvantaged regions where there is considerably less economic development than in the rest of Spain, with little industry and a critical employment situation; whereas the survival of undertakings in other sectors in these regions depends on the viability of those in the urea sector; whereas, under these circumstances, the difficulties encountered by undertakings in the urea sector are likely to cause a serious deterioration in the economic situation of these regions;

Whereas, in these circumstances a quantitative limit on imports from the other Member States would allow the process of restructuring the Spanish undertakings in the area sector to continue under the plan instituted by Royal Decree 295/1985 of 20 February 1985 approving conversion measures in the fertilizer sector; whereas the object of these measures is to enable the undertakings concerned to adapt to the economy of the common market;

Whereas imports originating in non-Community countries are subject to a surveillance system under the provisions of Council Regulation (EEC) No 288/82 [1]; whereas this surveillance system is such as to enable the Spanish authorities to control the flow of imports originating in non-Community countries pending the results of a Community survey [2] now being conducted under that Regulation and the possible adoption of Community measures;

Whereas, to ensure the equitable distribution of permitted imports between the Member States and the operators concerned, existing trade flows should be conformed to and the interests of new operators taken into consideration;

Whereas, because of the seriousness of the situation, the protective measures must apply even to existing contracts; whereas, to avoid further harm to the operators affected by this decision, it should not be applied to goods already in transit; whereas, nevertheless, provision should be made for the Spanish authorities to have the option of taking into consideration the total volume of such shipments for the purpose of allocating the quantities fixed pursuant to this Decision;

Whereas, if the provisions of this Decision are to be correctly applied, specific implementing and management rules must be laid down; whereas, in order to prevent further disturbance of the market in the products concerned, it is necessary to lay down the quantities which may be imported into Spain in each half year up to the end of 1987;

Whereas, if the provisions of this Decision are to be correctly applied, procedures for mutual information and consultation between the Commission and the Spanish authorities must be laid down;

Whereas this Decision is justified only to the extent that the conditions set out in Article 379 of the Act of Accession continue to apply; whereas the Commission may consequently have to amend or repeal this Decision; whereas the Commission should therefore continuously verify the data which provide the grounds for this Decision;

Whereas the Commission is required as a matter of priority to adopt those measures which least disturb the functioning of the common market; whereas, in view of the Commission's examination of the economic difficulties, the limits adopted constitute measures which will least disturb the operation of the market whilst making it possible to achieve the desired result,

HAS ADOPTED THIS DECISION:

Article 1

Up to 31 December 1987, and subject to the conditions set out below, Spain is hereby authorized to limit imports of urea originating in the Member States.

Article 2

Imports into Spain of urea classified under NIMEXE codes 31.02.15 and 31.02.80 and originating in the Member States shall be limited to 100 000 tonnes up to 31 December 1987.

Article 3

For the purpose of administering the import limits provided for in this Decision, the Spanish authorities shall have regard to existing trade flows both in terms of the countries of origin of the products concerned and in terms of the operators affected.

Article 4

1. For the purpose of implementing the import limits referred to in Article 2, the Spanish authorities shall issue import documents free of charge within five days of the date of application. Nevertheless, the Spanish authorities shall fix the operative dates for these documents in such a way as to ensure that the quantities involved are opportioned to the periods of six months.

2. The Spanish authorities shall reserve 5 % of total urea imports as limited in accordance with the provisions of Article 2 for operators who up to now have not conducted import operations into Spain.

3. The Spanish authorities shall carry forward to the subsequent six months a quantitiy corresponding to the total shares not used up in one six-month period.

4. The Spanish authorities may not demand the import document provided for in paragraph 1 in respect of deliveries of the products covered by this Decision which are already in transit on the date when the Decision takes effect. Nevertheless, the Spanish authorities may deduct the total volume of such imports from the quantities laid down pursuant to this Decision.

5. The Spanish authroities may deduct from the limits laid down pursuant to this Decision the total volume of imports of the products referred to in Article 2 originating in other Member States and imported between 1 July 1986 and the date when this Decision takes effect.

[1] OJ No L 35, 9. 2. 1982, p. 1.
[2] OJ No C 154, 20. 6. 1986, p. 2.

Article 5

1. The Spanish authorities shall communicate to the Commission not later than 15 August 1986 the measures implementing this Decision.

2. On the thirtieth day of each month the Spanish authorities shall communicate the data for the preceding month for imports from the Member States. These data, broken down by Member State, shall provide information on the quantities of products actually imported and the import documents issued pursuant to Article 4.

3. Once a fortnight, the Spanish authorities shall send the Commission figures on imports from non-Community countries, broken down by country of origin and obtained through the surveillance system provided for by Regulation (EEC) No 288/82.

Article 6

1. The Commission shall supervise the application of the provisions of this Decision and reserves the right to amend or repeal it.

2. On the basis of data obtained from checking the figures for the sector concerned, the Commission shall, where necessary, revise the import limits laid down in this Decision.

3. Difficulties which may arise when this Decision is implemented shall be examined jointly by the Spanish authorities and the Commission.

Article 7

This Decision shall take effect on the date of its notification to the Spanish Government and shall expire on 31 December 1987.

Article 8

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 16 July 1986.

For the Commission

COCKFIELD

Vice-President