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REGULATION (EEC) No 1643/71 OF THE COMMISSION

of 28 July 1971

introducing a system of minimum prices for imports of tomato concentrates from Greece

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 865/68[1] of 28 June 1968 on the common organisation of the market in products processed from fruit and vegetables, as last amended by Regulation (EEC) No 1425/71[2];

Having regard to Council Regulation (EEC) No 1427/71[3] of 2 July 1971 introducing protective measures for products processed from fruit and vegetables, and in particular Article 1 (2) thereof;

Whereas imports into the Community of tomato concentrates from Greece during the 1970 marketing year amounted to some 22 000 metric tons; whereas this figure is 10 000 metric tons higher than the figure for 1969 and 18 000 metric tons higher than the figure for 1968;

Whereas the offer prices from Greece in respect of this product are equivalent to 60 to 70% of the cost price within the Community industry; whereas, consequently, the trend of imports from Greece may aggravate difficulties facing Community producers as regards production and marketing;

Whereas massive imports from Greece at these very low prices create a situation on the Community market where products of Community origin lose trade outlets;

Whereas many tomato processing undertakings in the main production areas of the Community have been obliged to close during the last marketing year; whereas because of this much Community processing has suffered irremediable damage; whereas this is basically due to the difference between the offer prices of the product imported into the Community and the cost price within the Community industry;

Whereas the halt in production in these factories and increased imports have resulted in fewer potential outlets for fresh tomatoes, and because of this there could be a surplus of at least 200 000 metric tons of the latter in the 1971 marketing year;

Whereas there may be a comparable effect on tomato processing undertakings in the Community following importation at prices and quantities which are similar to those of the previous marketing years;

Whereas an assessment of the situation on the market, the main points of which are outlined above, leads to the conclusion that imports, and in particular imports from Greece enjoying the preferential treatment provided for by the Association Agreement with that country, threaten the Community market with serious disturbances which could lead to prices such as to jeopardise the objectives of Article 39 of the Treaty; whereas, in these circumstances, it is necessary to take protective measures applicable to imports of tomato concentrates from Greece;

Whereas the protective measures must be so defined that where imports are effected under conditions such that their admission does not worsen the market situation, these imports will not be adversely affected; whereas, to that end, the protective measures should be equally applicable to imports from other third countries which threaten to disturb the Community market;

Whereas, with regard to imports from Greece and taking into consideration the special system governing trade between the Community and that country, a system of minimum import prices should be adopted; whereas, in order to check that these prices are being complied with, these imports should

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[1] OJ No L 153, 1.7.1968, p. 8.
[2] OJ No L 151, 7.7.1971, p. 1.
[3] OJ No L 151, 7.7.1971, p. 5.

be made subject to the submission of an import licence to be issued without any quantitative restriction; whereas these prices must be fixed, taking into account the criteria mentioned in Article 44 (2) and (3) of the Treaty, at a level which ensures that the imports in question can no longer lead to prices likely to jeopardise the objectives of Article 39 of the Treaty;

HAS ADOPTED THIS REGULATION:

Article 1

1. From 9 August 1971 all imports into the Community of tomato concentrates from Greece falling within sub-heading No ex 20.02 C of the Common Customs Tariff shall be subject to the submission of an import licence.

2. Member States shall issue the licence under the conditions laid down in Article 2, on application by the party concerned, irrespective of the place of his establishment within the Community, and within ten working days following the submission of the application.

The licence shall be issued for imports to be effected during the month for which it was drawn up. It may, however, cover the fortnight preceding or the fortnight following the month in question in respect of the quantity for which it was issued. It shall be valid for imports to be effected in the Member State which issued it.

3. When application for a licence is made, the monthly quantities of products to which it relates shall be indicated.

Article 2

The issue of the import licence shall be subject to:

(a) a written undertaking from the importer to ensure:

(aa) that importation of not more than 105% and not less than 95% of the specified quantity of the product will be effected during the period of validity of the licence;

(bb) that this importation arises from a contract providing for sale and delivery free at Community frontier, or at a place situated outside the Community, at a price higher than that shown in the Annex to this Regulation for the quality in question, and

(cc) that this price will actually be paid;

(b) the lodging by the importer of a deposit of 3 units of account per 100 kilogrammes net weight to guarantee the undertaking referred to under (a) (aa), and

(c) a written undertaking from the importer to pay a sum of 12 units of account per 100 kilogrammes net weight if proof of compliance with the minimum price has not been furnished in accordance with the provisions of Article 8 (1) within six months following the expiry of the validity of the import licence.

Article 3

The import licence shall mention:

(a) the name and address of the applicant;

(b) the description of the product, the Common Customs Tariff sub-heading within which it falls and its reference number in the goods nomenclature for foreign trade statistics of the Member State in question;

(c) the country of origin of the product;

(d) the quantity of the product expressed in kilogrammes, net weight;

(e) the month for which it was issued.

Article 4

The obligations arising from the licence are not transferable. The rights arising from the licence are transferable by the licence holder during the period of validity of the licence. Such transfer may only be made in favour of one transferee per licence.

The transfer shall take effect when the agency issuing the licence enters on the licence the name and address of the transferee and the date of this entry, and certifies the entry by affixing its official stamp.

This entry shall be made at the request of the licence holder. The transferee may not transfer his right or transfer it back to the titular licence holder.

Article 5

The deposit referred to in Article 2 (b) may be lodged in cash or in the form of a guarantee given by an establishment complying with the criteria laid down by the Member State from which the issue of the certificate is requested.

Article 6

1. Without prejudice to the provisions of Article 7:

(a) the deposit shall be forfeited in whole when the obligation to import has not been fulfilled during the period of validity of the licence;

(b) the deposit shall be forfeited in part if the quantity imported is more than 5% less than the quantity indicated in the licence. The amount of the deposit withheld shall be calculated by reference to the difference between the quantity indicated in the licence less 5% and the quantity actually imported.

2. The deposit shall be immediately released in respect of applications withdrawn no later than the last day for the issue of the licence; if the certificate has been issued in the meantime, release of the deposit shall be subject to the return of the licence.

Article 7

1. On application by the party concerned, the Member State which issued the import licence shall decide that the obligation to import is cancelled and that the deposit shall not be forfeited, when importation cannot be effected during the period of validity of the licence as a result of circumstances to be considered to be a case of *force majeure*.

2. The importer shall, by means of appropriate documents, furnish proof of the circumstances considered to be a case of *force majeure*.

3. Member States shall inform the Commission of circumstances recognised as a case of *force majeure*.

Article 8

1. Proof of compliance with the minimum price shall be furnished by submitting to the body which issued the licence:

— the contract referred to in Article 2 (a) (bb), and

— a bank attestation certifying that payment of the purchase price specified in that contract has been made.

2. The amounts due under the undertaking referred to in Article 2 (c) shall be collected by the Member State which issued the import licence.

Article 9

For the purposes of this Regulation, 'net weight' means the weight of the product including the immediate packings.

Article 10

This Regulation shall enter into force on 1 August 1971.

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

Done at Brussels, 28 July 1971.

For the Commission

The President

Franco M. MALFATTI

ANNEX

Price in u.a./100 kg net weight, not including customs duties

Dry matter content		In bulk or in immediate packings of 4 kg or more	In immediate packings of less than 4 kg but equal to or more than 1·5 kg	In immediate packings of less than 1·5 kg but equal to or more than 0·7 kg	In immediate packings of less than 0·7 kg but equal to or more than 0·25 kg	In immediate packings of less than 0·25 kg but equal to or more than 0·15 kg	In immediate packings of less than 0·15 kg
equal to or more than (%)	but less than (%)						
—	20	27·5	28·9	31·6	33·0	38·5	41·3
20	22	28·8	30·2	33·1	34·6	40·3	43·2
22	24	30·1	31·6	34·6	36·1	42·1	45·2
24	26	31·4	33·0	36·1	37·7	44·0	47·1
26	28	32·7	34·3	37·6	39·2	45·8	49·1
28	30	34·0	35·7	39·1	40·8	47·6	51·0
30	32	35·3	37·1	40·6	42·4	49·4	53·0
32	34	36·6	38·4	42·1	43·9	51·2	54·9
34	36	37·9	39·8	43·6	45·5	53·1	56·9
36	38	39·2	41·2	45·1	47·0	54·9	58·8
38	40	40·5	42·5	46·6	48·6	56·7	60·8
40	42	41·8	43·9	48·1	50·2	58·2	62·7
42	—	43·1	45·2	49·6	51·7	60·3	64·7