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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1316/87

of 11 May 1987

on the safeguard measures provided for in the Third ACP-EEC Convention

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the detailed rules for implementing the safeguard clauses provided for in Chapter 1 of Title I of Part 3 of the Third ACP-EEC Convention signed at Lomé on 8 December 1984 (hereinafter called 'the Convention') should be laid down in such a way as to enable the Community and the Member States to comply with the obligations they have assumed in this connection ;

Whereas this Regulation lays down specific provisions in relation to the general rules provided for in particular in Council Regulation (EEC) No 288/82 of 5 February 1982 on common rules for imports [1] insofor as this is made necessary by the provisions of the Convention ;

Whereas, when examining whether a safeguard measure should be introduced, account should be taken of the undertakings given in Article 139 (2), (3) and (4) and in Article 142 of the Convention ;

Whereas the procedures concerning the safeguards clauses provided for in the Treaty establishing the European Economic Community and in the Regulations on the common organization of agricultural markets are also applicable ;

Whereas these provisions replace those of Council Regulation (EEC) No 1470/80 of 9 June 1980 on the safeguard measures provided for in the Second ACP-EEC Convention [2],

HAS ADOPTED THIS REGULATION :

Article 1

1. Where a Member State asks the Commission to apply safeguard measures as provided for in Article 139 of the Convention, the Commission shall inform the Council within three working days of the action which it intends to take on this request.

If the Commission decides not to apply safeguard measures, any Member State may refer this decision to the Council within 10 working days of notification of the Commission's position. The Council shall meet without delay. Acting by a qualified majority, it may amend the decisions taken by the Commission.

2. Where the Commission, at the request of a Member State or on its own initiative, decides that safeguard measures as provided for in Article 139 of the Convention should be applied :

— it shall inform the Member States forthwith,

— at the same time it shall inform the African, Caribbean and Pacific States (ACP) and shall notify them of the opening of the consultations referred to Article 140 (1) of the Convention,

— at the same time it shall supply the ACP States with all the information necessary for these consultations.

3. The Commission shall be assisted during the consultations referred to in paragraph 2 by a Committee composed of representatives of the Member States and chaired by a Commission representative.

The consultations shall at all events be deemed completed after 21 days have succeeded the notification provided for in paragraph 2.

Following, the consultations, or as the case may be, on expiry of this period of 21 days, and if it has not been possible to conclude any other arrangement, the Commission may take appropriate measures to implement Article 139 of the Convention.

4. The measures referred to in paragraph 3 shall be notified immediately to the Member States and to the ACP States.

They shall be applicable immediately.

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[1] OJ No L 35, 9. 2. 1982, p. 1.
[2] OJ No L 147, 13. 6. 1980, p. 4.

5. Any Member State may refer a Commission decision adopted pursuant to paragraph 3 to the Council within 10 working days of notification of these measures.

6. If the Commission has not taken a decision within 10 working days following the end of the consultations or, as the case may be, the end of the period of 21 days, any Member State which has referred the matter to the Commission in accordance with paragraph 1 may refer it to the Council.

7. In the cases referred to in paragraph 5 and 6 the Council shall meet without delay. Acting by a qualified majority, it may conform, amend or cancel the measures in question.

8. This Article shall apply without prejudice to Article 2 and 3.

Article 2

1. Should special factors arise within the meaning of Article 140 (3) of the Convention, the Commission may take, or may authorize a Member State to take, immediate safeguard measures.

2. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

The Commission's decision shall be notified to all Member States.

3. Any Member State may refer the Commissions' decision to the Council in accordance with the procedure provided for in Article 1 (5).

The measures taken by a Member State in implementation of the decision of the Commission or, as the case may be, of the Council, and any amendement which it makes thereto, shall be notified to the other Member States and to the Commission.

Article 3

1. Without prejudice to the application of Articles 1 and 2, the Member State or States concerned may, in an emergency, introduce safeguard measures. They shall notify the other Member States and the Cmmission of such measures forthwith.

Using an emergency procedure the Commission shall, within five working days following the notification referred to in the first subparagraph, decide whether the measures are to retained, amended or abolished.

The Commission's decision shall be notified to all Member States. It shall be immediately enforceable.

2. Any Member State may refer the Commission's decision to the Council within 10 working days following notification of that decision. The Council shall meet without delay. Acting by a qualified majority, it may amend or annul the decision taken by the Commission.

If the matter is referred to the Council by the Member State which has taken the measures, the Commission's decision shall be suspended. The suspension shall cease to apply 30 days after the matter has been referred to the Council if the latter has not by then amended or annulled the Commission's decision.

Article 4

This Regulation shall preclude the application of Regulations establishing a common organization of agricultural markets or of Community or national administrative provisions derived therefrom or of the specific rules adopted under Article 235 of the Treaty for processed agricultural products; it shall be implemented as a complement to those instruments.

Article 5

Community notifications, as provided for in Article 139 of the Convention, shall be made to the ACP-EEC Council of Ministers by the Commission.

Article 6

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 11 May 1987.

For the Council

The President

M. EYSKENS