COMMISSION REGULATION (EEC) No 3420/88

of 3 November 1988

amending for the second time Regulation (EEC) No 480/87 laying down rules for implementing the import arrangements applicable to products falling within subheading 07.06 A of the Common Customs Tariff, originating in Thailand and exported from that country in 1987, 1988, 1989 and 1990

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 430/87 of 9 February 1987 concerning the import arrangements applicable to products falling within subheading 07.06 A of the Common Customs Tariff and coming from third countries, and amending Regulation (EEC) No 960/68 on the Common Customs Tariff (1), and in particular Article 2 thereof,

Whereas, in view of experience gained and for the sake of sound management of the agreement concluded with Thailand, the administrative practice whereby, when it is observed that quantities landed in the Community in a given consignment exceed those on the import licence, the Commission, notified by the compentent authorities of the Member States, contacts the Thai authorities in order to permit the issue of new documents for excess quantities landed, should be re-established;

Whereas, in agreement with the authorities of the exporting country, however, excess quantities landed may be released for free circulation where they do not exceed the quantities covered by the licences presented by more than 2 %, subject to the lodging of a specific security the amount of which is to cover the difference between the levy subject to a ceiling of 6 % *ad valorem* and the full levy; whereas, in that specific case, the conditions and rules for issuing an import licence for the additional quantity should be stipulated; whereas there is no special need to demand a security corresponding to an obligation to import to be lodged since the goods concerned have, by way of an exception, been released for free circulation subject to the lodging of a security of a higher amount with a specific object; whereas the release of that security in full or in part is subject to the issue of new Thai certificates and Community licences for the additional quantities and primarily to the existence of available quantities within the limits for annual import into the Community;

Whereas the management of such import arrangements does not justify the application of the general tolerance of 5 % for excess quantities provided for in Article 8 (4) of Commission Regulation (EEC) No 3183/80 of 3 December 1980 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (2), as last amended by Regulation (EEC) No 2082/87 (3); whereas, however, the 7 % tolerance provided for in Article 2 of Commission Regulation (EEC) No 2042/75 of 25 July 1975 on special detailed rules for the application of the system of import and export licences for cereals and rice (4), as last amended by Regulation (EEC) No 3271/88 (5), is to apply where the imported quantities are less than those indicated on the licence;

Whereas, in order to permit close, on-going cooperation between the Commission and the Thai authorities in managing the agreement, provision must be made for periodic notification by Member States at more frequent intervals of the issue of import licences and their actual use;

Whereas Commission Regulation (EEC) No 480/87 (6), as amended by Regulation (EEC) No 2135/88 (7), should therefore be amended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 480/87 is hereby amended as follows:

1. Article 4 (2) and (3) is replaced by the following:

'2. Where it is found that the quantities actually unloaded in a given consignment are greater than the total figuring on the import licences issued for this consignment the competent authorities who issued the import licences concerned shall, at the request of the importer, communicate to the Commission by telex, case by case and as soon as possible, the number or numbers of the Thai export certificates, the number or numbers of the import licences, the excess quantity concerned and the name of the cargo vessel.

(1) OJ No L 43, 13. 2. 1987, p. 9.

(2) OJ No L 338, 13. 12. 1980, p. 1.
(3) OJ No L 195, 16. 7. 1987, p. 11.
(4) OJ No L 213, 11. 8. 1975, p. 5.
(5) OJ No L 291, 25. 10. 1988, p. 47.
(6) OJ No L 49, 18. 2. 1987, p. 13.
(7) OJ No L 188, 19. 7. 1988, p. 24.

The Commission shall make contact with the Thai authorities so that new export certificates may be drawn up. Until new export certificates have been drawn up, the excess quantities may not be released for free circulation under the conditions laid down in the voluntary restraint agreement the European Economic Community and Thailand. New import licences shall be issued under the conditions laid down in Article 7.

3. Notwithstanding paragraph 2, however, where it is found that the quantities actually unloaded in a given consignment exceed by no more than 2 % those covered by the import licences presented, the competent authorities in the Member State of release for free circulation shall, at the request of the importer, authorize the release for free circulation of the excess quantities on payment of a levy subject to a ceiling of 6 % *ad valorem,* and on the lodging by the importer of a security of an amount equal to the difference between the levy at the full rate and the levy paid.

The Commission shall, upon receipt of the information referred to in the first subparagraph of paragraph 2, make contact with the Thai authorities so that new export certificates can be drawn up.

The security provided for in the first subparagraph of this paragraph shall be released on submission to the competent authorities of the Member State of release for free circulation of an import licence for the additional quantity. The application for such licence shall not be subject to the lodging of the security refered to in Article 13 (2) of Regulation (EEC) No 3183/80 and Article 5 of this Regulation. The licence shall be issued under the conditions laid down in Article 7 and on submission of one or more new export certificates issued by the Thai authorities. Section 12 of the import licence shall bear one of the following:

— Certificado complementario, apartado 3 del artículo 4 del Reglamento (CEE) nº 480/87

— Supplerende licens, forordning (EØF) nr. 480/87, artikel 4, stk. 3

— Zusätzliche Lizenz — Artikel 4 Absatz 3 der Verordnung (EWG) Nr. 480/87

— Συμπληρωματικό πιστοποιητικό — Άρθρο 4 παράγραφος 3 του κανονισμού (ΕΟΚ) αριθ. 480/87

— Licence for additional quantity, Article 4 (3) of Regulation (EEC) No 480/87

— Certificat complémentaire, règlement (CEE) nº 480/87, article 4 paragraphe 3

— Titolo complementare, regolamento (CEE) n. 480/87, articolo 4, paragrafo 3

— Aanvullend certificaat — artikel 4, lid 3, van Verordening (EEG) nr. 480/87

— Certificado complementar, nº 3 do artigo 4º do Regulamento (CEE) nº 480/87.

The securiy provided for in the first subparagraph shall be forfeit in respect of the quantities for which an import licence for the additional quantity is not submitted within four months, except in cases of *force majeure,* from the date of acceptance of the declaration of relase for free circulation referred to in the first subparagraph. It shall be forfeit in particular in respect of quantities for which an import licence for the additional quantity has not been issued in accordance with Article 7 (1).

Following imputation and endorsement by the competent authority of the import licence for the additional quantity, and upon the release of the security provided for in the first subparagraph, the licence shall be returned as quickly as possible to the issuing body.'

2. The following paragraph 4 is added to Article 4:

'4. Applications for licences may be lodged in any Member State and licences issued shall be valid in the 12 Member States.

The third indent of Article 5 (1) of Regulation (EEC) No 3183/80 shall not apply to imports made under the agreement between the European Economic Community and Thailand.'

3. Article 6 (3) is replaced by the following:

'3. Notwithstanding Article 8 (4) of Regulation (EEC) No 3183/80, the quantity released for free circulation many not exceed that shown in sections 10 and 11 of the import licence. The figure 0 shall be entered to that effect in section 22 of the said licence.'

4. Article 9 is replaced by the following:

'Article 9

1. Member States shall communicate to the Commission each day by telex the following information concerning each application for a licence:

— the quantity for which each import licence is requested, with the indication when appropriate, "licence for additional quantity",

— name of applicant for import licence,

— the number of the export certificate submitted, as indicated in the upper section of the certificate,

— the date of issue of the export certificate,

— the total quantity for which the export certificate was issued,

— the name of the exporter indicated on the export certificate.

2. The competent authorities of the Member States shall communicate to the Commission, by telex, at the lastest on the 15th day of each month, for operations carries out during the previous month, all the information listed in the Annex II, in accordance with the models provided.'

5. The Annex becomes Annex I and the Annex to this Regulation is added as Annex II.

Article 2

This Regulation shall enter into force on the eight day following 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, 3 November 1988.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

'ANNEX II

IMPORT OF MANIOC FROM THAILAND

TABLE 1

Regulation (EEC) No 480/87 — Article 9 (2)

Year : .....

Month : .....

Thailand export certificate No	Cargo vessel	Quantities shown in the export certificate	Community import licence No	Date of issue of import licence	Quantities shown in the import licence

IMPORTS OF MANIOC FROM THAILAND

TABLE 2

Regulation (EEC) No 480/87 — Article 9 (2)

Year : .....

Month : .....

Date of release for free circulation	Quantities released for free circulation (*)	Name of vessel	No and date of issue of import licence (*)

(*) Quantities to be released for free circulation pursuant to Article 4 (3) of Regulation (EEC) No 480/87 are shown separately. In such cases, a reference to that Article is to be entered in the column headed 'No and date of issue of import licence'.