COMMISSION REGULATION (EC) No 2091/94

of 24 August 1994

adopting a protective measure with regard to imports of garlic originating in Taiwan and Vietnam

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Regulation (EC) No 3669/93 [2], and in particular Article 29 (2) thereof,

Whereas Council Regulation (EEC) No 2707/72 [3] lays down the conditions for applying protective measures for fruit and vegetables;

Whereas pursuant to Commission Regulation (EEC) No 1859/93 [4], as amended by Regulation (EC) No 1662/94 [5], the release for free circulation in the Community of garlic imported from third countries is subject to presentation of an import licence;

Whereas on 8 August 1994 the Kingdom of Spain requested the Commission to take protective action over imports of garlic originating in third countries other than China; whereas this request was supplemented by additional information;

Whereas, by Regulation (EC) No 1213/94 [6], as amended by Regulation (EC) No 1992/94 [7], on 27 May 1994 the Commission adopted a protective measure applicable to imports of garlic from China limiting the quantity for which import licences may be issued before 31 May 1995 to 10 000 tonnes, of which no more than 5 000 tonnes may be issued before 31 August 1994; whereas it became necessary from 2 June 1994 to suspend the issue of licences until 31 August 1994, and subsequently to provide, in Regulation (EC) No 1992/94, amending Regulation (EC) No 1213/94, for a monthly management system for issuing licences up to 31 May 1995;

Whereas current applications for licences to import garlic originating in Taiwan and Vietnam considerably exceed the traditional volume of imports originating in those countries; whereas in the first seven months of 1994 the import licences issued were for a total of 21 213 tonnes not including China; whereas this quantity represents 84 % of total imports, not including China, in 1993; whereas leaving the current situation unchanged could therefore cause serious disturbance on the Community market, liable to endanger achievement of the objectives of Article 39 of the EC Treaty and those of Regulation (EC) No 1213/94;

Whereas, according to information received by the Commission, garlic originating in third countries is being offered at particularly low prices which are 50 % to 60 % below the average Community price in 1992, the year before the garlic crisis, and at the same time 10 % below current production costs, and transactions involving products of Community origin from the 1994/95 marketing year are therefore practically impossible; whereas this situation is causing serious harm to Community producers;

Whereas, therefore, the issue of import licences should be suspended for the period strictly necessary to eliminate the said disturbance in respect of products originating in Taiwan and Vietnam;

Whereas, pursuant to Article 3 (3) of Regulation (EEC) No 2707/72, the special position of products in transit to the Community should be taken into account,

HAS ADOPTED THIS REGULATION:

Article 1

The issue of import licences for garlic (CN code 0703 20 00), originating in Taiwan and Vietnam, as referred to in Regulation (EEC) No 1859/93, is hereby suspended until 31 May 1995.

Article 2

1. Article 1 shall not apply to applications for licences intended to cover products which are proved, when the application is submitted, to have been in transit to the Community before this Regulation entered into force.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 338, 31. 12. 1993, p. 26.
(3) OJ No L 291, 28. 12. 1972, p. 3.
(4) OJ No L 170, 13. 7. 1993, p. 10.
(5) OJ No L 176, 9. 7. 1994, p. 1.
(6) OJ No L 133, 28. 5. 1994, p. 36.
(7) OJ No L 200, 3. 8. 1994, p. 11.

2. Products shall be considered as in transit to the Community if:

— they left Taiwan or Vietnam before this Regulation entered into force, and

— they are accompanied by a transport document which is valid from the place of loading in Taiwan or Vietnam up to the place of unloading in the Community and was made out before this Regulation entered into force.

3. The parties concerned shall provide proof, to the satisfaction of the competent authorities, that the conditions set out in paragraph 2 have been complied with.

However, the competent authority may regard the products as having left Taiwan or Vietnam before the entry into force of this Regulation if one of the following documents is submitted:

— in the case of transport by sea, the bill of lading showing that loading took place before that date,

— in the case of transport by rail, the consignment note accepted by the Vietnamese or Taiwanese railways before that date,

— in the case of transport by road, the TIR (international road transport) carnet issued by the Vietnamese or Taiwanese customs office before that date,

— in the case of transport by air, the air consigment note showing that the airline received the products before that date.

Article 3

This Regulation shall enter into force on the day 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, 24 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission