COMMISSION REGULATION (EC) No 2311/94

of 26 September 1994

adopting a protective measure applicable to imports of garlic originating in the Union of Myanmar

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], on the application of the system of import licences for garlic imported from third countries, the release of garlic imported from third countries for free circulation in the Community is subject to the presentation of import licences;

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

Whereas, by Regulation (EC) No 2091/94 [8], the Commission adopted a protective measure with regard to imports of garlic originating in Taiwan and Vietnam, suspending the issuing of import licences for those two countries until 31 May 1995;

Whereas, at present, applications for imports licences are being submitted for garlic declared as originating in the Union of Myanmar despite the fact that no imports of such products have taken place at least since 1980; whereas there are justifiable doubts as to the origin of those imports and as a consequence an inquiry must be undertaken to establish their origin;

Whereas leaving the present situation unaltered could result in serious disturbance on the Community market, which could jeopardize the objectives of Article 39 of the EC Treaty and those of Regulation (EC) No 1213/94;

Whereas, pending the results of the abovementioned inquiry, the issuing of import licences for garlic originating in the Union of Myanmar should accordingly be suspended for the period strictly necessary to eliminate the abovementioned disturbance;

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

HAS ADOPTED THIS REGULATION:

Article 1

The issuing of import licences for garlic (CN code 0703 20 00) originating in the Union of Myanmar, 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 realting to products proven, at the time of lodging of the application, to be in the process of shipment to the Community before the entry into force of this Regulation.

2. Products shall be deemed to be in the process of shipment to the Community where they:

— left the Union of Manmar before the entry into force of this Regulation,

and

— are shipped from the place of loading in the Union of Myanmar to the place of unloading in the Community under cover of a valid transport document established before the entry into force of this Regulation.

3. The parties concerned shall provide proof to the satisfaction of the competent authorities that the conditions laid down in paragraph 2 have been met.

However, the authorities may regard the products as having left the Union of Myanmar before the entry into force of this Regulation where one of the following documents is provided:

[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.
[8] OJ No L 220, 25. 8. 1994, p. 8.

— 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 Myanmar railway authorities before that date,

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

— in the case of transport by air, the air consignment note showing that the airline took over 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, 26 September 1994.

For the Commission

René STEICHEN

Member of the Commission