COMMISSION REGULATION (EC) No 1410/96

of 19 July 1996

concerning the partial withdrawal of Regulation (EC) No 3053/95 amending Annexes I, II, III, V, VI, VII, VIII, IX and XI to Council Regulation (EEC) No 3030/93 on common rules for imports of certain textile products from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries [1], as last amended by Commission Regulation (EC) No 941/96 [2], and in particular Article 19 in conjunction with Article 17 thereof,

Whereas the fifth and sixth indents of Article 1 of Commission Regulation (EC) No 3053/95 [3] respectively amended and repealed Annexes VI and VIa to Regulation (EEC) No 3030/93; whereas this amendment was adopted at a time when, by virtue of Article 19 of Regulation (EEC) No 3030/93, the Commission was not yet entitled to do so, the Council not yet having decided to conclude or apply provisionally the market access arrangements negotiated by the Commission with India and Pakistan; whereas Regulation (EC) No 3053/95 therefore contains a procedural defect that warrants at least its withdrawal or partial annulment; whereas according to the case-law of the Court, notably as established in its judgment of 20 June 1991 in Case C-248/89 *Cargill v. Commission* ECR I, p. 2987, the withdrawal of an unlawful act is admissible only if it takes place within a reasonable period and sufficient account is taken of the legitimate expectations engendered by its adoption; whereas the application of these principles requires that the rights engendered among its intended beneficiaries, and in particular those involved in the textiles trade (by Regulation (EC) No 3053/95) in the period from 1 January 1995 and the date of entry into force of this Regulation be honoured; whereas it must nevertheless be underlined that this withdrawal is not to be seen as undermining or derogating from Article 20 of Regulation (EEC) No 3030/93, which provides that the said Regulation and its Annexes 'shall not constitute in any way a derogation from the provisions either of the bilateral agreements, protocols or arrangements on textile trade which the Community has concluded with the third countries listed in Annex II or of the ATC with regard to the WTO Members listed in Annex XI and which, in all cases of conflict, shall prevail';

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Regulation (EC) No 3053/95 shall be repealed with retroactive effect from 1 January 1995 inasmuch as the fifth and sixth indents of Article 1 thereof amend and/or repeal Annexes VI and VIa to Regulation (EEC) No 3030/93.

2. The partial withdrawal of Regulation (EC) No 3053/95 referred to in paragraph 1 shall not affect the rights that its adoption may have engendered among its intended beneficiaries in the period from 1 January 1995 and the date of entry into force of this Regulation.

Article 2

This Regulation shall enter into force on the 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, 19 July 1996.

For the Commission

Leon BRITTAN

Vice-President

[1] OJ No L 275, 8. 11. 1993, p. 1.
[2] OJ No L 128, 29. 5. 1996, p. 15.
[3] OJ No L 323, 30. 12. 1995, p. 1.