COMMISSION REGULATION (EC) No 875/96

of 14 May 1996

amending Regulation (EEC) No 1442/93 laying down detailed rules for the application of the arrangements for importing bananas into the Community

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [1], as last amended by Regulation (EC) No 3290/94 [2], and in particular Article 20 thereof,

Whereas pursuant to Article 9 (3) of Commission Regulation (EEC) No 1442/93 [3], as last amended by Regulation (EC) No 1164/95 [4], a percentage reduction is to be applied to all licence applications submitted for a given origin where the sum of the quantities requested appreciably exceeds the indicative quantity fixed for the quarter in question for that origin; whereas to protect the interests of small operators dealing only with a given origin, the reduction does not apply to applications relating to a quantity of not more than 150 tonnes provided that the quantity available for the current year has not been exhausted; whereas to avoid abuse of the measure and the submission of an unjustified number of such applications a threshold, by origin, beyond which the reduction coefficient becomes applicable should be set; whereas, nonetheless, such a threshold should not be applicable to applications submitted by new operators in Category C;

Whereas in fact each Category C operator at present obtains import rights against the tariff quota for a small annual quantity that he can if he wishes use up in full in a single licence application; whereas it therefore appears appropriate not to subject Category C licence applications to a percentage reduction provided that the quota share set for the origin concerned is not exceeded;

Whereas Articles 10 (3) and 17 (4) of Regulation (EEC) No 1442/93 lay down conditions for the issue of reallocation licences for unused quantities under licences issued for a previous quarter of the same year; whereas the determination of traditional quantities for individual ACP countries and of quota shares for certain countries or groups of supplying countries under the framework agreement on bananas concluded in the Uruguay Round of multilateral trade negotiations leads to the setting of percentage reductions by origin; whereas sound management of these quantities requires the reallocation licences be applied for and issued for the same origin as the initial licence unused in whole or in part;

Whereas the requirements of quarterly management of the quota shares assigned individually by Regulation (EEC) No 404/93 to each of the Windward Islands are causing major difficulties for these ACP producer regions owing to their production and marketing conditions and their difficulty in organizing regular periodic consignments; whereas there is justification for acceding to their request that provision be made for issuing import licences for bananas originating in the Windward Islands; whereas, therefore, the indicative quantities fixed each quarter pursuant to Article 14 of Regulation (EEC) No 1442/93 should be fixed for the Windward Islands as a whole; whereas compliance with the quota shares of each of these ACP states should be ensured on an annual basis by checking the actual origin of the goods at the time of their release for free circulation and by monitoring the certificates of origin issued by authorities in the supplying regions;

Whereas experience also shows that more flexibility should be exercised in management of the quarterly quantities fixed for imports of traditional ACP quantities, in line with the procedures followed in connection with the tariff quota provided for in Article 18 of Regulation (EEC) No 404/93;

Whereas, having regard to the multiplicity of communications between the Commission and the Member States and the checking, where appropriate, of certain information, the time limit set each quarter for the issue of import licences should be extended by a few days;

Whereas the amount of the security against the import licence should be adjusted to take account of the change in the ecu value of certain prices and amounts made to neutralize the effects of abolishing the correction factor

(1) OJ No L 47, 25. 2. 1993, p. 1.
(2) OJ No L 349, 31. 12. 1994, p. 105.
(3) OJ No L 142, 12. 6. 1993, p. 6.
(4) OJ No L 117, 24. 5. 1995, p. 14.

which applied until 31 January 1995 to the conversion rates used for the purposes of the common agricultural policy;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1442/93 is hereby amended as follows:

1. in Article 9 (3) the last sentence of the first subparagraph is replaced by the following:

   'The reduction shall not, however, apply to the following:

   — Category A and B licence applications relating to a quantity of not more than 150 tonnes, provided that the total quantity covered by such applications does not exceed, for a given origin, 15 % of the total of the quantities applied for,

   — Category C licence applications.';

2. in Article 10 (3) the first subparagraph is replaced by the following:

   'Unused quantities shall be reallocated on application to the same operator, either the holder or the transferee as appropriate, and for the same origin, in a subsequent quarter of the year in which the first licence was issued.';

3. in Article 11 (1) '21' is replaced by '23';

4. Article 14 is amended as follows:

   (a) paragraph 1 is replaced by the following:

   '1. For traditional quantities of bananas originating in the ACP States, as indicated in Article 15a of Regulation (EEC) No 404/93, quarterly indicative quantities shall be fixed for the purposes of issuing import licences, on the basis of the criteria laid down in Article 9 (1).

   For Saint Lucia, Saint Vincent and the Grenadines, Dominica and Grenada a single quarterly indicative quantity shall be fixed with the indication "Windward Islands".';

   (b) paragraph 3 is deleted;

   (c) paragraph 4 is replaced by the following:

   '4. Import licence applications shall be admissible only where:

   (a) they are accompanied by the original of a certificate drawn up by the competent authorities of the ACP country concerned testifying to the origin of the bananas in accordance with the model in Annex III;

   (b) they contain:

   — the words "traditional ACP bananas — Regulation (EEC) No 404/93" under the heading "Notes" and in Section 24;

   — an indication of the country of origin in Section 8; however, for goods originating in Saint Lucia, Saint Vincent and the Grenadines, Dominica and Grenada, the application may show the words "Windward Islands" in Section 8;

   (c) they relate to a quantity which does not exceed that set out in the Annex to Regulation (EEC) No 404/93 for a given ACP country.';

   (d) the following paragraph is added:

   '5. Import licences shall contain the entries specified in paragraph 4 and shall make it compulsory to import from the origin indicated in Section 8. Import licences with the entry "Windward Islands" in Section 8 shall make it compulsory to import from one of the ACP states referred to in paragraph 4 (b).';

5. Article 15 is replaced by the following:

   'Article 15

   Release of traditional ACP bananas for free circulation shall be subject to presentation of the original of an EUR 1 certificate of origin drawn up by the competent authorities in the country concerned testifying to the origin of the bananas.

   Where in import licence with the entry "Windward Islands" in Section 8 is presented, the competent authorities shall indicate on the reverse side of the licence the quantity released for free circulation and the precise origin of the goods covered by the import licence presented.';

6. Article 16 is amended as follows:

   (a) In paragraph 1 the first and second subparagraphs are replaced by the following:

   'Within two working days following the closing date for the submission of import licence applications, the competent national authorities shall notify the Commission of the quantities covered by licence applications, indicating the origin entered in Section 8. For the Windward Islands the quantities for each island must also be given.

   They shall issue licences for the quantities and origins indicated in the applications except where a uniform percentage reduction is set pursuant to paragraph 2.';

(b) Paragraph 2 is replaced by the following:

'2. Where, for a quarter and for a given origin the quantities applied for appreciably exceed the indicative quantities fixed, a uniform percentage reduction to be applied to all import licence applications mentioning that origin shall be set.

Where the quantities applied for exceed the traditional quantities available for a given origin, the Commission shall determine a percentage reduction to be applied to all licence applications for that origin.';

7. Article 17 is amended as follows:

(a) In paragraph 1, '21' is replaced by '23'.

(b) In paragraph 4, the first subparagraph is replaced by the following:

'Unused quantities shall be reallocated on application to the same operator, either the holder or the transferee as appropriate, and for the same origin, in a subsequent quarter of the year in which the first licence was issued.';

8. in Article 19 'ECU 15' is replaced by 'ECU 18,11';

9. in Annex I the competent authorities for Belgium, Denmark and Portugal are replaced by the following:

'— BELGIUM

Bureau d'intervention et de restitution belge/
Belgisch Interventie- en Restitutiebureau
Rue de Trèves/Trierstraat 82
B-1040 Bruxelles/Brussel

— DENMARK

EU-direktoratet
Kampmannsgade 3
DK-1780 København V

— PORTUGAL

Ministério da Economia
Direcção Geral do Comércio
Direcção de Serviços de Licenciamento do Comércio Externo
Av. da República, 79
P-1094 Lisboa Codex'.

Article 2

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

It shall apply for the first time to import licence applications submitted for the third quarter of 1996.

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

Done at Brussels, 14 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission